

APPENDIX B:

2255 Hearing Exhibits

DECLARATION OF JAN VOGELSANG, M.S.W.

I, Jan Vogelsang, M.S.W., declare as follows:

I. REFERRAL QUESTION

I have been asked by Lisa Montgomery's attorneys to prepare a biopsychosocial history of Lisa and to identify those factors that shaped and influenced her development and functioning. In order to prepare a biopsychosocial history, I followed the standard of care in my profession and in the capital defense community, paying particular attention to case law *Williams v. Taylor*, 529 U.S. 362 (2000); *Wiggins v. Smith*, 539 U.S. 510 (2003); *Rompilla v. Beard*, 545 U.S. 374 (2005); *Porter v. McCollum*, 558 U.S. 30 (2009); *Sears v. Upton*, 130 S.Ct. 3259 (2010) and the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases (2003 Revision) and the Supplemental Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases (2008). I will present a detailed multigenerational biopsychosocial history of Lisa Montgomery followed by my findings.

II. WHAT IS A BIOPSYCHOSOCIAL EVALUATION?

Social workers and other qualified experts routinely prepare and present a biopsychosocial history in capital cases in order for decision makers to have a reliable, thorough, and independently documented narrative of those factors that shaped and influenced a capital defendant's behavior and functioning over the course of her life and surrounding the offense. The biopsychosocial history is a multigenerational history that presents the biological, psychiatric, psychological, and social history of a person; in a case such as Lisa's it is the basis of a neurodevelopmental history. It takes into account the defendant's family, culture, education, religion, medical, psychiatric and neurologic health, criminal justice involvement, employment, and economic and social status. The multigenerational history considers genetic vulnerability and

predisposition to medical and psychiatric diseases that affect behavior, perceptions, and functioning, and identifies patterns of family dynamics that are passed from one generation to the next. A reliable biopsychosocial history must be based on methods of data collection that are accepted within the legal, medical, and social science communities, with multiple sources, and tested until redundant. It describes historical, genetic vulnerabilities, and the day-to-day manifestations of those disabilities.

Preparing Lisa Montgomery's social history was unusual in several aspects; in particular, the volume of data available in this case is unusual. Lisa's father and his family lived in the northwest in urban areas that routinely maintained life history records that offer detail about the demographics of the family's day-to-day life. Investigators were able to identify, search, and locate volumes of evidence about the family's medical, educational, military, and civilian life going back three generations. Interviews with extended family members established insight into the broader picture of mental illness, particularly affective mood disorders, and neurologic deficits such as seizure disorders and cognitive impairments.

Another area where Lisa's biopsychosocial history is unusual is the large fund of difficult-but-possible-to-document data that was relevant. Lisa, Lisa's mother, and her mother's family came from exceptionally large families with significant maladaptive patterns of behavior and mental impairments, starting with 12 children belonging to Lisa's grandmother's sibship or cohort group. Multiple marriages by individuals, marriages within traditionally prohibited groups such as stepchildren marrying each other, incest, extrajudicial removal (kidnap) of children from custodial parents, and violent sexual assaults against children in the family all recur in this family. The degree of maladaptive behavior suggests the presence of mental disabilities, which

are documented in medical, psychiatric, criminal and civil proceedings, employment, and education records and oral reports by family members.

The volume and quality of life history records in Lisa's case are especially relevant to mental health assessments. Historical data assist in establishing clinical criteria such as date and age of onset, duration of symptoms, life stressors, symptoms and behavioral patterns, drug and alcohol use, response to treatment, longitudinal course of illness, pre-morbid functioning, and relevant medical conditions for Lisa and for significant others whose behavior directly affected her. The data also assist in identifying biological, neurological, and psychiatric predispositions of family members to major mental disorders such as schizophrenia, bipolar mood disorder, depression, learning disabilities, alcohol and drug dependence, temporal lobe epilepsy, and psychotic disorders not otherwise specified. Data in Lisa's biopsychosocial history also identify environmental and developmental factors associated with mental illness and poor social outcomes, including extreme poverty, head injuries and loss of consciousness, child sexual exploitation, malnutrition, unstable family constellations, and early and ongoing neglect and abandonment. It is especially important to identify medical conditions and other psychiatric or neurologic disorders which must be ruled out or explained in order to understand the complexity of her inherited genetic predisposition to mental impairments and her chronic exposure to extreme sexual, physical, and emotional trauma, which are now recognized to have enduring effects on brain structure and functioning. Lisa's maternal and paternal families contained formal diagnoses of or patterns of behavior associated with psychosis, autism, learning and developmental disabilities, dementia, epilepsy, bereavement, hypothyroidism, intellectual disability, substance abuse, drug dependence, schizophrenia spectrum disorders, impaired memory, and bipolar mood disorders.

These kinds of data supplement and offer insight into Lisa's life that would otherwise be unavailable from her or other witnesses due to a variety of factors, including impediments inherent in psychiatric disorders, shame and fear by potential informants, and fluctuations over time in symptoms. In Lisa's case, she and other potential witnesses are unable to perceive, recall or relate accurately early life experiences, significant events, and specific facts related to events leading up to the offense due to dissociation, intoxication, seizures, blackouts, cognitive deficits, and predictable traumatic reactions. Lisa, like some of the other witnesses, is unaware of basic information regarding her own life and that of significant family members and also unaware of her own impairments and symptoms such as paranoia, memory deficits, and problems with perception. She, like other extreme trauma survivors, is victim to unconscious efforts to avoid the terror of reliving events which would result in retraumatization.

Lisa's participation in the biopsychosocial history I prepared was enhanced by her current medication regimen, a trusting relationship with her defense team, and the team's experience in working with mentally ill and traumatized clients. The team devoted considerable informed effort to overcome Lisa's profound and almost insurmountable fear of disclosing information which is painful, deeply buried, and humiliating. However, this biopsychosocial history documents considerable information and data of which Lisa was not aware but which significantly affected the course of her life, beginning with the abandonment by her father who left her in the hands of her severely disturbed mother.

III. QUALIFICATIONS

I am licensed by the State of South Carolina Board of Social Work Examiners and board certified by the American Board of Examiners in Clinical Social Work. I hold a Master of Social Work degree from the University of South Carolina (1980) and a Bachelor of Arts degree in Psychology from Pepperdine University (1977).

I have conducted biopsychosocial assessments for thirty-three years both in my private practice and for the courts. I have qualified as an expert witness in the field of social work in federal courts in Tennessee, Virginia, Georgia, and South Carolina and by the state courts of Tennessee, South Carolina, North Carolina, Virginia, Georgia, Florida, Alabama, Mississippi, Texas, California, and Alaska. A copy of my curriculum vitae follows this declaration.

The biopsychosocial assessment is a clinical social work method of gaining insight into an individual's physical and emotional development, possible psychological impairments, and level of social functioning. This is achieved by gathering information on an individual from numerous sources and compiling it into a comprehensive evaluation. The resulting biopsychosocial assessment is comprised of clinical interviews, a review and assessment of relevant documents, consultation with other professionals and a review of their reports and opinions, historical research, and if needed, visual aids. The purpose of such an assessment is not to excuse any particular human behavior, but rather to shed light on the significant factors that shaped the individual's development.

Clinical social workers are trained to conduct the biopsychosocial assessment and to use it in various settings related to mental health, including expert testimony in the courtroom. In the context of a capital case prosecution, the information from the biopsychosocial assessment is typically presented at trial in the penalty phase and is also relied upon by other mental health

experts in reaching their opinions. A credentialed clinical social work expert presents the findings to the jury and offers expert opinions. Clinical social workers are licensed to diagnose and treat mental, emotional, and behavioral disorders. They are able to factor into their assessments the findings of other professionals including those related to medical, biological, neurological, and genetic issues.

The following biopsychosocial assessment demonstrates not only what was known about Lisa Montgomery at the time of her trial, but it also includes voluminous information not investigated or presented to the courts by the appropriate expert and lay witnesses.

IV. MATERIALS UPON WHICH I RELIED IN COMPILING THE EVALUATION

In order to prepare a reliable biopsychosocial history, I reviewed medical, mental health, social service, education, employment, judicial, military, and vital statistic records for Lisa, her spouses and children, and her paternal and maternal families; interviewed Lisa, her maternal aunt Darlene Alexander, her half-brother, Teddy, and her maternal cousin Wendy Treib; and reviewed relevant testimony and evidence from trial proceedings against her. A list of the material not cited in this report but upon which I relied in addition to the materials contained herein is attached to this declaration as Attachment A. During the course of my work, I identified additional documents and evidence to obtain and potential witnesses to locate and interview in order to provide a reliable biopsychosocial history that addresses complex problems associated with the impact of abuse and trauma on Lisa's underlying neurological and psychiatric diseases, her development during childhood, and her day to day functioning as an adult. This effort is ongoing and revelatory as it provides a mosaic of interrelated, severe disabilities that have not

been examined previously. As I obtain additional, relevant and significant information about Lisa, I will supplement my findings.¹

V. EVALUATION

Psychiatric and neurologic disease affected every aspect of Lisa Montgomery's life in much the same way they had affected her mother's and father's lives. Lisa's father and his family and Lisa's mother and her family inherited genetic vulnerability that made them at increased risk for developing psychiatric and neurologic disorders later in their lives when triggered by particular environmental factors. Bipolar mood disorder, depression, cognitive impairments, post traumatic stress disorder, autism, and neurologic disorders took a heavy toll on Lisa's family in generation after generation. Family patterns of behavior passed from one generation to the next in much the same way and with equally devastating results. In order to understand the events of Lisa's life and how the cascade of terrifying events she survived affected her, it is necessary to chart the interaction of mental illness and trauma in her parents' lives.

¹I originally prepared this biopsychosocial history under extreme time constraints imposed by circumstances over which Lisa and her counsel have no control. These extreme time constraints created significant barriers to disclosure of sensitive, shameful information about torture, captivity, and maltreatment by those who witnessed, designed, and participated in inflicting cruel, inhumane, and degrading maltreatment on Lisa and by Lisa herself. These barriers to revelation about real situations of sexual exploitation and slavery and other strategies of coercive control can only be overcome by building a trusting relationship and providing a safe environment to the truth teller. It is a time intensive endeavor that requires multiple interviews over time, weighed and analyzed against a backdrop of collateral data. It cannot be accomplished by accepting as true self-serving narratives by perpetrators and biased others or victims who have multiple underlying mental impairments as a result of torture or biological makeup. Subsequently, I have gone back through the data and reviewed each page of this document. This revised version of my original declaration corrects typographical and citation errors. My opinions and conclusions have not changed. Rather, they have been strengthened by this review as well as by review of newly available data. The new information is summarized in my supplemental declaration which is also being signed on this date.

A. Historical Framework

a. Paternal Family

a. Lisa's Paternal Family Has a Substantial History of Psychiatric and Neurologic Impairments.

Depression, anxiety and their destructive companion of alcoholism came to Lisa from her father's side of the family, along with neurologically based disabilities. Lisa's father is John Patterson. John's grandmother "died from sugar diabetes" and "had Lupus."² When she passed away, "she was covered with scales" and sores.³ John's mother, Marie,⁴ also suffered miserably in her final years from Lupus, which made her "easily stressed and upset."⁵ Marie "had Alzheimer's disease and dementia when she died."⁶ Her death certificate lists her cause of death on December 22, 2007, as "failure to thrive" and "severe end stage dementia."⁷ In her younger years, Marie also experienced blackouts and uncontrollable emotions. If Marie "got into a fight she blacked out and then came to banging someone's head against the ground. She could not remember getting in the fight or actually fighting."⁸ Marie "blacked out during the whole fight and then woke back up at the end, when she was getting pulled off the person."⁹

Lisa's father, John, attempted to quell his anxiety and depression with alcohol, and "drank all day, every day" from 1960 until 1980.¹⁰ He and his friends "drank way too much."¹¹

² Attachment 1, Declaration of Thomas Allen Hedberg. Thomas Allen Hedberg (Tom) is Lisa Montgomery's paternal half uncle. Tom is John Patterson's maternal half-brother. John Patterson is Lisa's father. Attachment 2, Declaration of Lisa Rickert, incorporating interview with Marie Stelma 5-17-2005.

³ Id.

⁴ Attachment 3, Marie Miller Patterson Hedberg Stelma. Birth Certificate, DOB 11-26-1921; and Attachment 4, Death Certificate, DOD 12-22-2007.

⁵ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

⁶ Attachment 5, Declaration of Mary Lee Coleman. Mary Lee Coleman is Lisa Montgomery's paternal aunt. Mary is John Patterson's sister.

⁷ Attachment 4, Marie Josephine Stelma, Death Certificate.

⁸ Attachment 1, Declaration of Thomas Allen Hedberg.

⁹ Id.

¹⁰ Attachment 6, Declaration of John Patterson.

¹¹ Id.

John's drinking interfered with his military career, and his Army superiors noted "alcoholic tendencies and indebtedness" in his file.¹² John's sixth wife noted that he suffers from "neuropathy in his feet" which seems likely connected his 20 years of drinking.¹³ John recognized his depression and anxiety. He "felt depressed" and "became withdrawn."¹⁴ "Nothing" gave him "any joy."¹⁵ His former sisters-in-law thought "there was "something strange about him."¹⁶

Lisa's paternal half-sister, Diane Rae, suffered from depression and anxiety her entire life. She "was depressed for weeks at a time" and still struggles "with anxiety, fear, and depression."¹⁷ Her son understands that Diane has "struggled with depression and bipolar her whole life."¹⁸

Lisa's paternal aunt, Mary Lee, had a series of neurological events that required surgery, medication, and rehabilitation. She underwent a craniotomy at the age of 50.¹⁹ Mary Lee first experienced grand mal seizures in 1970²⁰ and continued to have seizures throughout her adulthood, despite medications including Dilantin.²¹ In 1972, when she was 27 years old, Mary Lee developed a large left frontal arteriovenous malformation (AVM). She suffered from

¹² Attachment 7, John Patterson, Military Records.

¹³ Attachment 8, Declaration of Christina Juarez Patterson. Christina is Lisa Montgomery's stepmother. Christina is married to John Patterson, Lisa's father.

¹⁴ Attachment 6, Declaration of John Patterson.

¹⁵ Id.

¹⁶ Attachment 2, Declaration of Lisa Rickert, incorporating interviews of Alice Derry and Ellen Linderman. Alice and Ellen are Lisa's mother Judy's sisters.

¹⁷ Attachment 9, Declaration of Diane Rae Hedberg Mattingly. Diane is Lisa's paternal half-sister. Diane and Lisa share the same father, John Patterson.

¹⁸ Attachment 80, Declaration of Jonathan Caleb Thompson.

¹⁹ Attachment 10, Mary Lee Coleman, Harborview Medical Records.

²⁰ Id.

²¹ Id.

migraines for most of her adult life and has had several small strokes.²² In 1996, Mary Lee was diagnosed with depression and prescribed Zoloft.²³

Lisa's paternal half uncle, Thomas Allen Hedberg (Tom), survived spinal meningitis at the age of three years old, and developed depression, anxiety and headaches, as well as uncontrollable emotions similar to his mother's blackouts.²⁴ Tom's depression persists in his adulthood. "I have depression."²⁵ Tom's daughter, Heather Hedberg, recognized "[d]epression runs on my paternal side."²⁶ Tom's sister, Lori Mae Yates, agreed that Tom "suffers from anxiety and depression."²⁷

Lisa's paternal cousin, Heather Hedberg, struggled with major depression, was treated with Wellbutrin, and spent her school years in special education classes.²⁸ Heather "was always in special ed for math and reading" and had "trouble learning and trouble reading like regular people."²⁹ Heather had auditory hallucinations of "angry voices and thoughts" for "as long as" she could remember.³⁰ She "was always a depressed little kid," and she "started to have suicidal thoughts" as she grew older.³¹ Her father, Tom Hedberg, agreed that "Heather has major depression, and I have depression too."³² Tom's son, Daniel Hedberg also struggled with depression, suicidal thoughts, and self-harming inclinations. He "was depressed too, for most of his life. When he was younger he went to Las Vegas and took a bottle of pills and drank a cup of

²² Attachment 5, Declaration of Mary Lee Coleman.

²³ Attachment 254, Mary Lee Coleman, Harborview Medical Center; Good Samaritan Hospital, 3-1-1996.

²⁴ Attachment 1, Declaration of Thomas Allen Hedberg.

²⁵ Id.

²⁶ Attachment 11, Declaration of Heather Hedberg. Heather is Lisa Montgomery's paternal cousin. Heather's father, Thomas Allen Hedberg, is Lisa's paternal half uncle.

²⁷ Attachment 12, Declaration of Lori Mae Yates. Lori is Lisa Montgomery's paternal half aunt. Lori's mother, Marie, is also John Patterson's mother.

²⁸ Attachment 11, Declaration of Heather Hedberg.

²⁹ Id.

³⁰ Id.

³¹ Id.

³² Attachment 1, Declaration of Thomas Allen Hedberg.

bleach. He was trying to kill himself.”³³ Another one of Lisa’s paternal cousins, Penny Yates, struggled with depression and Crohn’s disease, according to her mother.³⁴

Lisa’s paternal family has a substantial history of depression, anxiety, and neurological disorders that range from blackouts and seizures to AVMs that passed from one generation to the next. These impairments affected family dynamics and directly affected John’s performance as Lisa’s father and Lisa’s development and functioning.

b. Social History of John Patterson (Lisa’s father)

Marie Miller Patterson Hedberg Stelma was born in Charleston, Washington,³⁵ lived in Bremerton, Washington,³⁶ and grew up in Sumner, Washington.³⁷ Marie’s father, Joseph Jacob Miller, was Scottish, hailed from New Jersey, and worked as a foreman in a paper company most of his life.³⁸ Marie’s mother, Mary Magdalene Knox, was born in Illinois,³⁹ before moving to Washington. Mary Magdalene was Irish, presumably,⁴⁰ and worked as a house wife most of her life except when her husband fell ill with diphtheria.⁴¹ Mary Magdalene and Joseph had four children: Charles, Marie (John Patterson’s mother), Billy and Kate.⁴²

When Marie was a young child her family moved from Washington to New Jersey to be with her father’s family. One uncle on the paternal Miller side of Marie’s family may have been mentally ill. This uncle was “odd and picked blackberries and put a crate on his head. He never hurt anyone, he was just odd.”⁴³ While the family was in New Jersey, they all came down with

³³ Attachment 11, Declaration of Heather Hedberg.

³⁴ Attachment 12, Declaration of Lori Mae Yates.

³⁵ Attachment 3, Marie Josephine Miller Birth Certificate.

³⁶ Attachment 13, Mary Lee Hedberg Coleman, Tacoma, WA Enrollment Record, Gray Junior High.

³⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Marie Stelma, 5-17-2005.

³⁸ Id.

³⁹ Attachment 3, Marie Josephine Miller Birth Certificate.

⁴⁰ Attachment 2, Declaration of Lisa Rickert, incorporating interview with Marie Stelma 5-17-2005.

⁴¹ Attachment 4, Marie Stelma Death Certificate.

⁴² Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

⁴³ Id.

diphtheria, an upper respiratory tract illness that can cause peripheral nerve palsies.⁴⁴ Marie's father was paralyzed for a while and Marie's mother had to work outside of the home to make ends meet. The family eventually moved back to Washington State. Marie's father recovered from his illness, and he returned to his role of head of the household.⁴⁵

Marie's first marriage was ill fated. She married Robert Lee Patterson on August 5, 1941, in Tacoma, Washington.⁴⁶ Both were young: Marie was 19 years old when she married, and Robert was in his early 20s. Robert was born in Graham County, North Carolina, and reared in Robbinsville⁴⁷ and Cherokee, North Carolina,⁴⁸ before moving to Washington.⁴⁹ Robert's family was of German descent, and he had relatives in Washington State, near the town of Puyallup, Washington.⁵⁰ After marrying, Marie and Robert lived in Federal Way, Washington.⁵¹

Marie's marriage to Robert was a "catastrophe."⁵² Marie believed Robert "was unfaithful. They fought a lot. They argued constantly."⁵³ Lisa's father remembered that "[n]either of them was happy in the marriage. Marie was constantly angry at Robert, and they fought all of the time."⁵⁴ Marie married Robert to get away from her controlling and possessive mother, but "marriage to Robert was not what she wanted."⁵⁵ Marie "married the first man who asked" her.⁵⁶ Marie and Robert had two children: John Joseph, born in Tacoma, Washington, on

⁴⁴ Attachment 14, New Jersey reported the highest average annual mortality rate for diphtheria (44.5 per 100,000) between 1895 and 1911, which declined to 28.8 per 100,000. 15,000 to 20,000 people died annually from diphtheria in the 1920s. (Edward A. Lane, Trends in Diphtheria Mortality. 1933)

⁴⁵ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

⁴⁶ Attachment 15, Marriage Certificate Robert Patterson and Marie Miller; Attachment 5, Declaration of Mary Lee Coleman.

⁴⁷ Attachment 16, Robert Lee Patterson Birth Certificate.

⁴⁸ Attachment 17, Robert Lee Patterson Enlistment Records.

⁴⁹ Attachment 6, Declaration of John Patterson.

⁵⁰ Id.

⁵¹ Id.; Attachment 2, Declaration of Lisa Rickert incorporating interview with Marie Stelma 5-17-2005.

⁵² Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

⁵³ Attachment 5, Declaration of Mary Lee Coleman.

⁵⁴ Attachment 6, Declaration of John Patterson.

⁵⁵ Attachment 5, Declaration of Mary Lee Coleman.

⁵⁶ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

June 15, 1942, and Mary Lee, born on September 15, 1945.⁵⁷ Robert was not much of a family man and cheated on Marie throughout her marriage.⁵⁸ Marie “looked down” on Robert for his infidelity and “thought he was a coward.”⁵⁹

Shortly after Mary Lee’s birth in 1945, Robert left the family for good. Years later after Mary Lee reached adulthood, she asked to meet her father, Robert.⁶⁰ Marie drove her to Robert’s only sister, Ruth, who lived nearby in Federal Way, Washington. Ruth refused to say where her brother was.⁶¹ After Robert left his son John, daughter Mary Lee, and wife Marie, no one saw him again, except for young John whose next encounter with his father deeply scarred him.

c. Lisa’s Father Suffered at the Hands of His Mother.

John Patterson’s mother, Marie, “was quick to get angry. Marie argued with people.”⁶² As a young child, John “learned very early on to never make her mad. It was much easier to just agree with her and pretend that she was always right, instead of confronting her and trying to change her mind.”⁶³ Marie taught John another lesson, too. She taught him how to pick and choose which child to love and nurture and which child to resent and abandon. Through her own actions, Marie showed John that he was the least of her four children and not entitled to an equal place in their family. She singled John out to belittle, degrade, and criticize for being the child of his father and for sharing characteristics with his father.⁶⁴

⁵⁷ Attachment 13, Mary Lee (Hedberg) Coleman, Federal Way Public School Records.

⁵⁸ Attachment 6, Declaration of John Patterson.

⁵⁹ Attachment 5, Declaration of Mary Lee Coleman.

⁶⁰ Attachment 13, Mary Lee (Hedberg) Coleman, Federal Way Public School Records; Mary Lee (Hedberg) Coleman, Lisa’s paternal aunt, was born, reared, and stayed in the Tacoma area. She attended Federal Way Junior and Senior High Schools where she was an average student whose IQ was measured at 90 in 1960; Attachment 2, Declaration of Lisa Rickert incorporating interview with Marie Stelma 5-17-2005.

⁶¹ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

⁶² Attachment 10, Declaration of Mary Lee Coleman.

⁶³ Attachment 6, Declaration of John Patterson.

⁶⁴ Id.

d. John's Father Kidnapped Him.

In a dreadful act with consequences that passed from one generation to the next, John's father kidnapped him when John was only four years old and kept him hidden for approximately one year.⁶⁵ After disappearing shortly following the birth of his daughter, Mary Lee, John's father returned to the house. Robert snuck into the back yard of Marie's home in Federal Way, Washington. John was playing in the back yard when he saw a man he did not recognize, Robert, watching him. The man told four year old John that they were going for a ride in the car. Robert took John from the backyard without any toys, clothes or food.⁶⁶ Robert took John to an unknown location some "three days of travel" away from Washington.⁶⁷ Robert Patterson left John alone for much of the year, in a "large drafty house on a lake" where John was lonely, cold and hungry much of the year.⁶⁸

After approximately one year, Robert's parents⁶⁹ showed up at the house and forcibly took five year old John away from Robert. Robert's parents, John's paternal grandparents, took John by train, again for three days of travel, back to their home in Puyallup, Washington.⁷⁰ Then they called John's mother to let her know she could come get her son.⁷¹ When Marie arrived at

⁶⁵ Attachment 6, Declaration of John Patterson; Attachment 2, Declaration of Lisa Rickert incorporating interview with Marie Stelma 5-17-2005.

⁶⁶ Attachment 18, Declaration of Grace Figg Baum. Grace Figg Baum, at 94 years of age, is Marie Stelma's oldest living friend; Attachment 6, Declaration of John Patterson.

⁶⁷ Attachment 6, Declaration of John Patterson.

⁶⁸ Id.

⁶⁹ Robert's parents were William Patterson and Sudie Morgan, farmers from North Carolina. William was 47 years old when Robert was born, and Sudie was 26 years old. They could both "read [and] write," according to Robert's birth certificate. Attachment 16, Robert Lee Patterson, Birth Certificate.

⁷⁰ Id.

⁷¹ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

the Patterson's house to take John home, "he didn't recognize her at all. He had no recollection" of his mother after being gone for a year.⁷²

John was never the same after the kidnapping. Five-year-old John was "was a basket case"⁷³ who "babbled" about what he experienced in his year away, but his mother could not make out specifics of what the child tried to say.⁷⁴ He was too young to "tell anyone where he had been for that year."⁷⁵ Marie never asked Robert Patterson's parents where they had found John, and so no one close to John ever knew.⁷⁶ Marie had no idea where John lived for that year or what he experienced.⁷⁷

John had "horrible nightmares" and developed a fear of being alone.⁷⁸ John "seemed shy, timid and scared. He talked funny when he came back. It's as if he hadn't learned to talk correctly. He expressed himself differently than other little boys. He used different words for things."⁷⁹ John was "angry, belligerent, depressed, afraid of the dark, [and] screamed when he was put in the bathtub."⁸⁰ John "cried for no reason and was deathly afraid of the dark."⁸¹ Marie felt John "had behavior problems and issues with anger and fear that stemmed from that year." She said he "talked funny," and had a funny accent.⁸²

Decades later Marie expressed regret for "not having him evaluated and treated by a mental health professional."⁸³ As Marie lay dying, she told John, "I wish I had had you checked

⁷² Attachment 5, Declaration of Mary Lee Coleman.

⁷³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Thomas Hedberg 5-19-2005.

⁷⁴ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

⁷⁵ Attachment 5, Declaration of Mary Lee Coleman.

⁷⁶ Id.

⁷⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Marie Stelma 5-17-2005.

⁷⁸ Attachment 6, Declaration of John Patterson.

⁷⁹ Attachment 18, Declaration of Grace Figg Baum.

⁸⁰ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

⁸¹ Attachment 6, Declaration of John Patterson.

⁸² Id.

⁸³ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

out back then.”⁸⁴ John never saw his father, Robert, after Robert’s parents returned him to Marie without explanation.⁸⁵ John never saw his paternal grandparents, the Pattersons, after they returned him to Marie.⁸⁶ Two decades later, John repeated his kidnap and abandonment by his father with Lisa and her sister.

e. Marie Degraded John.

John and his mother Marie had a strained and hostile relationship and “fought often.”⁸⁷ Marie “never stopped comparing John to his father,” telling him he looked just like his father and acted just like his father . . . all negatives for her.⁸⁸ Marie resented Robert so much “that it spilled over and she acted like she hated” both her children from her marriage to Robert.⁸⁹ Marie was “very critical of Robert, even when he was long gone.”⁹⁰ As a young boy Marie told John he “was a coward” just like his father.⁹¹ This was difficult for a young boy to understand, and John “wondered if she blamed” him for “getting kidnapped.”⁹² John’s life-long friend, Ronald Figg, concluded Marie “was mean” and “blamed John and Mary for being from her relationship with her first husband. Marie never let them live that down, being related to their father.”⁹³

Robert Patterson abandoned Marie in 1945, kidnapped John in 1946 and returned him in 1947 just as John was scheduled to enroll in the first grade.⁹⁴ That year Marie met a man named Gordon Hedberg. Marie and Gordon were married the summer after John completed the first

⁸⁴ Attachment 6, Declaration of John Patterson.

⁸⁵ Robert died May 13, 2002, from “natural causes, etiology unknown,” in Port Angeles, Washington. He was a log truck driver with an eighth grade education. Attachment 20, Robert Lee Patterson, Death Certificate.

⁸⁶ Attachment 6, Declaration of John Patterson.

⁸⁷ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

⁸⁸ Attachment 6, Declaration of John Patterson.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ Attachment 21, Declaration of Ronald (Ron) Figg. DOB: 6-21-1942. Ron Figg is Lisa’s father John’s oldest living friend. They have been friends for 57+ years.

⁹⁴ Attachment 6, Declaration of John Patterson.

grade. After the wedding Marie asked John if he would like to start using Gordon's last name, Hedberg, instead of John's biological father's last name, Patterson. John "was very young and changing last names seemed like a fun thing to do."⁹⁵ John hoped "that not having my biological father's last name attached to my name might help make my mother less angry at me."⁹⁶ John took the Hedberg name without having been legally adopted by Gordon.⁹⁷

Gordon was a truck mechanic⁹⁸ and also sold oil filters and oil filter parts throughout the state of Washington. In 1948 Gordon moved Marie, John and Mary to Seattle from nearby Federal Way, Washington. Gordon had steady work in the area and the children enrolled at the Ridgecrest School in the northern part of Seattle, Washington. The neighborhood at the time was a military family neighborhood, close to the base and more rural than the city portions of Seattle.⁹⁹ Nearby woods offered a respite to John who described it:

There were lots of woods and places with no houses on them. Now that part of Washington State has grown to feel like it is all part of Seattle, but in 1948 it was woodsy and wide open. The woods was a perfect place to go and escape my mother's yelling and shouting. I loved being in the woods. I could just be myself there, and not have to worry all the time about making my mother angry, inciting her wrath.¹⁰⁰

Marie sure "had a temper"¹⁰¹ and it was easier for John to hide in the woods than try and appease his unpredictable, angry mother.¹⁰²

⁹⁵ Id.

⁹⁶ Id.

⁹⁷ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

⁹⁸ Attachment 6, Declaration of John Patterson.

⁹⁹ Attachment 21, Declaration of Ron Figg.

¹⁰⁰ Attachment 6, Declaration of John Patterson.

¹⁰¹ Attachment 18, Declaration of Grace Figg Baum.

¹⁰² Attachment 6, Declaration of John Patterson.

John's best friend since the second grade, Ron Figg, recognized "Marie didn't seem to like John too much."¹⁰³ Marie "always made a point of being" on Ron's side,¹⁰⁴ and he described an incident to illustrate her disregard for her son:

One time John and I were arguing over a girl. We were pretty young, too young to have any real idea about girls, and we were standing in Marie's yard with her fence in between us. John and I were suddenly throwing punches at each other across the fence. Marie leaned out of the house and instead of trying to break up the fight, and instead of trying to get me to stop fighting with her son, she actually yelled out to me 'hit him harder, take him out!' She had an opportunity to break up the fight and instead she leaned out of the house and threw oil on the fire. Even when I was a young kid, even when that first happened, I thought that that was strange. Strange for a mom to encourage the neighbor kid to hit her son harder and not to defend her own son.¹⁰⁵

f. Marie and John Both Showed Signs of Mood Instability.

As John became a teenager, his relationship with his mother grew even more strained. Her relationship with Gordon was "a good one" for Marie but not for John, especially after Marie and Gordon had their own children.¹⁰⁶ Marie and Gordon had two children who were John's half siblings: Lori Mae Hedberg, born December 6, 1957, and Thomas Allen Hedberg, born August 7, 1954.¹⁰⁷ After Tom and Lori were born, "Marie made a real point of turning her back" on John and Mary, her two children with Robert Patterson.¹⁰⁸ Marie "always made John feel like he was no good, because he was a reminder of his father."¹⁰⁹ Marie "turned her back on her first family and focused entirely on her second family."¹¹⁰ John's sister Mary agreed that

¹⁰³ Attachment 21, Declaration of Ronald Figg.

¹⁰⁴ Id.

¹⁰⁵ Id.

¹⁰⁶ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

¹⁰⁷ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Thomas Allen Hedberg.

¹⁰⁸ Attachment 6, Declaration of John Patterson.

¹⁰⁹ Id.

¹¹⁰ Id.

Marie “focused all of her attention on Tom and Lori” while John and Mary were “shunted to the side” as “second class compared to Tom and Lori.”¹¹¹

Marie controlled John and “yelled when she thought John was doing something wrong.”¹¹² Marie was very rigid and “had very specific ideas about the world,” and as John grew up, he tried to challenge some of those ideas.¹¹³ Marie’s rigidity made her “hard” and “quick to get angry. She argued with people. She was always right.”¹¹⁴ John’s younger brother, Tom, remembers his mother’s temper: “I learned immediately as a child never to question her. She would shout and yell at you if you did. Her temper was enough to keep us from getting her mad.”¹¹⁵ “Gordon tried to keep the lid on Marie, but he did not succeed.”¹¹⁶ Marie “was an angry person, very volatile and loud if she did not get her way. She crashed around in the kitchen, slamming cupboard doors and knocking things against each other when she was mad.”¹¹⁷ John desperately “wanted to change her mind about the world and wanted her to understand” him.¹¹⁸ They “argued and fought about how differently they saw the world, and about how angry she was at” John and Mary’s father, Robert, even years after Robert was gone, and years after Marie had remarried.¹¹⁹

As John grew older, his moods changed precipitously. Though Marie experienced John as an angry child and adolescent, she recognized that often John tried to play the role of “the class clown.”¹²⁰ She thought he had a “belligerent attitude.”¹²¹ She and John could not

¹¹¹ Attachment 5, Declaration of Mary Lee Coleman.

¹¹² Attachment 6, Declaration of John Patterson.

¹¹³ Id.

¹¹⁴ Attachment 5, Declaration of Mary Lee Coleman.

¹¹⁵ Attachment 19, Declaration of Thomas Hedberg.

¹¹⁶ Attachment 5, Declaration of Mary Lee Coleman.

¹¹⁷ Attachment 6, Declaration of John Patterson.

¹¹⁸ Id.

¹¹⁹ Id.

¹²⁰ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

¹²¹ Id.

communicate effectively. Marie “didn’t listen to other people, she railroaded them until they agreed with her ideas.”¹²² John tried to make his mother understand him, and to help her see his point of view. He failed at every turn. Marie never listened to John’s ideas about the world, and their communication was nonexistent. Marie thought John should do better in school and could behave better.¹²³

John and Marie also fought about John’s dating habits. After John began dating, Marie “didn’t like the way he treated women,” because she thought he behaved “like his father, cheating on his girlfriends.”¹²⁴ In Marie’s opinion John had “too many girlfriends,” and Marie “didn’t like it” and “let him know.”¹²⁵ Marie yelled at John for going out with his friends, with girls, and going to places that perhaps sold alcoholic drinks. “Marie was strict and did not allow alcohol or drugs in her home.”¹²⁶ Marie focused entirely on her two youngest children, Tom and Lori, and paid almost no attention to her two oldest children, John and Mary Lee, other than to criticize them.

Although John considered himself brighter than most of his peers, he did not plan to go to college. He “hated high school” and knew that he could have done better.¹²⁷ He knew he wasn’t “going to college because Gordon didn’t have the money.”¹²⁸ John “needed to get out from under the control of his angry mother” and so he enlisted in the Army in 1960 the same month he graduated from Federal Way high school.¹²⁹ John’s mother interpreted John’s speedy enlistment as his desire “to get away from” her,¹³⁰ and John’s sister agreed he “joined the Army to get

¹²² Attachment 6, Declaration of John Patterson.

¹²³ Id.

¹²⁴ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

¹²⁵ Id.

¹²⁶ Id.

¹²⁷ Attachment 6, Declaration of John Patterson.

¹²⁸ Id.

¹²⁹ Id.

¹³⁰ Attachment 2, Declaration of Lisa Rickert, incorporating report of telephone call with Marie Stelma.

away from our mother. She was quick to anger and her words were very hurtful. John wanted a life away from her anger.”¹³¹

g. John Enlisted in the Military in the Vietnam Era.

When John enlisted, his stepfather Gordon, who was an enlisted man in World II,¹³² was proud of John for “becoming an enlisted man.”¹³³ Gordon let John drive his car the day John enlisted, and John “felt so proud that he was proud of me.”¹³⁴ John had never “felt that from a parent” in his entire life. It was a wonderful feeling.¹³⁵ John’s initial screening tests with the Army showed that he “had a strong ability for accounting” and dealing with numbers.¹³⁶ The Army told John that they would send him to a base in Indiana after Basic Training, to train him to be an accountant for the Army.¹³⁷

After John enlisted in 1960, he started dating a girl from his high school, Marsha. Marsha was in John’s high school, a year younger, and John’s first sexual experience. They “fooled around some” and then Marsha discovered that she was pregnant.¹³⁸ John “had just completed Basic Training and was about to go to accounting school for the Army.”¹³⁹ He “barely knew about sex, let alone pregnancy, parenting and fatherhood.”¹⁴⁰ Marsha’s parents decided that “Marsha needed to leave town and go to relatives in California.”¹⁴¹ Marsha left Federal Way, Washington, went to California and had the baby in June of 1961. After she gave the baby up for adoption, Marsha returned to Federal Way to live with her parents. John only

¹³¹ Attachment 5, Declaration of Mary Lee Coleman.

¹³² Attachment 22, Gordon Hedberg Enlistment Information.

¹³³ Attachment 6, Declaration of John Patterson.

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ Attachment 6, Declaration of John Patterson; Attachment 7, John Patterson Military Records.

¹³⁸ Attachment 6, Declaration of John Patterson.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

spoke with Marsha one time after their baby was adopted, and she told John that their baby was a little boy.¹⁴² John lost touch with the first of his many children.

The U.S. Army sent John to Fort Ord, California, to complete Basic Training.¹⁴³ Signs of possible depression showed up when Army doctors examined John and cited him for “not keeping clean enough for Army standards.”¹⁴⁴ John had an abscess on his shoulder, and Army doctors told him “to take more frequent showers, and to brush my teeth more often.”¹⁴⁵ The Army found John “had a lot of problems with his teeth,” and he “almost got kicked out of the Army for that.”¹⁴⁶ John began to see he “basically learned, from the Army, how to be a grown up” instead of learning life skills from his mother.¹⁴⁷

John finished Basic Training at Fort Ord, California, and transferred to Fort Benjamin Harrison in Indiana for three months of accountant training.¹⁴⁸ John graduated from accounting training on December 30, 1960, and reenlisted for a three year tour of duty that same day. He was assigned to the 4th Administrative Unit at Fort Lewis, Washington, and moved back to Washington State.¹⁴⁹

John returned to Washington State and hooked back up with his old buddy, Ron Figg, who “was working for his dad, running a flooring company, and was in a rock and roll band.”¹⁵⁰ John was “so shy and backwards” that he had “a hard time interacting with people, especially girls.”¹⁵¹ John started “drinking alcohol to forget my childhood pain, and to relax.”¹⁵²

¹⁴² Id.

¹⁴³ Attachment 7, John Patterson, Military Records.

¹⁴⁴ Id.

¹⁴⁵ Id.

¹⁴⁶ Id.

¹⁴⁷ Attachment 6, Declaration of John Patterson; Attachment 7, John Patterson, Military Records.

¹⁴⁸ Attachment 7, John Patterson, Military Records.

¹⁴⁹ Id.

¹⁵⁰ Attachment 6, Declaration of John Patterson.

¹⁵¹ Id.

¹⁵² Id.

John found that when he drank, he could talk to girls more easily. He started going to the bars when Ron's band played, drinking, and trying to meet girls.

h. Lisa's Half Sister Diane Was Born into a Life of Abuse and Abandonment.

One of the girls that John met while he was stationed at Fort Lewis in Washington was an old friend of his sister's named Joyce Hamner. Joyce's parents were part Cherokee Indian and part Uchee Indian, so "she seemed very exotic" to John.¹⁵³ John was "very naïve, practically a virgin."¹⁵⁴ John and Joyce "went out one or two times, and it was all about the sex."¹⁵⁵ Joyce became pregnant, and John knew they "had to get married."¹⁵⁶ John "thought it was the right thing to do."¹⁵⁷

John and Joyce married in Coeur d'Alene, Idaho, on February 6, 1963,¹⁵⁸ but barely lived together as a married couple. Weeks after they married, the Army stationed John to a tour of duty in Munich, Germany.¹⁵⁹ John left for Munich on March 12, 1963,¹⁶⁰ and was out of the country when his second child was born. Joyce Hamner Hedberg gave birth to a baby girl and named her Diane Rae Hedberg on August 26, 1963, in Auburn, Washington,¹⁶¹ while her father was in Munich, Germany. Diane's mother was 19 years old and her father was 21 years old at the time of her birth.¹⁶² Joyce had a severe drug problem and "was in no way able to care for a baby. Joyce couldn't even care for herself."¹⁶³

¹⁵³ Id.

¹⁵⁴ Id.

¹⁵⁵ Id.

¹⁵⁶ Id.

¹⁵⁷ Id.

¹⁵⁸ Attachment 23, John Hedberg and Joyce Hamner Marriage License.

¹⁵⁹ Attachment 7, John Patterson, Military Records.

¹⁶⁰ Id.

¹⁶¹ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

¹⁶² Attachment 23, John Hedberg and Joyce Hamner Marriage License; Attachment 24, Diane Hedberg, State Department of Social Welfare of Kansas, Report to the Court, Probate Court of Saline County; Attachment 25, Diane Hedberg, Child in Need of Care, Riley County, Kansas, Case No. J-1040, 1972.

¹⁶³ Attachment 6, Declaration of John Patterson.

Diane barely survived the abuse and maltreatment by her mother, Joyce, for the first 18 months of her life. She was eventually referred to the Washington state social welfare agency for protection from “injurious living conditions” and malnutrition.¹⁶⁴ Diane “couldn’t walk or crawl, even at a year and a half old.”¹⁶⁵ On September 3, 1965, when she was two years old, Diane was officially placed in the temporary custody of her paternal grandparents, Marie and Gordon Hedberg.¹⁶⁶ The courts attempted to locate Joyce for custody proceedings, but were unable to find her anywhere.¹⁶⁷ John, his parents, and Diane “never saw Joyce again.”¹⁶⁸

John Patterson finished his tour of duty in Germany in February of 1965 and was reassigned to Vietnam on May 13, 1965.¹⁶⁹ John saw Diane briefly in September of 1965, during the court hearing to remove Diane from Joyce. John did not stay in Washington State to care for his daughter, though. Instead, primary care fell to John’s mother, Marie. From Vietnam John was transferred to the Army base in Fort Riley, Kansas. John shipped to Kansas from Cam Ranh Bay, Vietnam, on July 11, 1966.¹⁷⁰

Within two weeks of his arrival in Kansas, John met the next woman he would marry: Judy Rignell:

I had been stationed in Kansas for just two weeks when I met a girl who worked as a bar girl for one of the drinking establishments off of the base. Liquor was very carefully controlled in Kansas in those days, so you had to drink at an established club. The club had women, girls, really, who worked at the bar encouraging soldiers to drink more, in order for the bar owners to sell more alcohol. Judy was one of those girls.¹⁷¹

¹⁶⁴ Attachment 24, Diane Hedberg, State Department of Social Welfare of Kansas, Report to the Court, Probate Court of Saline County; Attachment 25, Diane Hedberg, Child in Need of Care, Riley County, Kansas, Case No. J-1040, 1972.

¹⁶⁵ Attachment 6, Declaration of John Patterson.

¹⁶⁶ Attachment 26, Letter from King County Youth Service Center 2-29-72

¹⁶⁷ Attachment 6, Declaration of John Patterson.

¹⁶⁸ Id.

¹⁶⁹ Attachment 7, John Patterson, Military Records.

¹⁷⁰ Attachment 7, John Patterson, Military Records.

¹⁷¹ Attachment 6, Declaration of John Patterson.

2. Maternal Family

a. Lisa's Maternal Family Has a Substantial History of Mental Disorders.

John, Lisa's father, was on a path likely to lead him to Judy, Lisa's mother. Judy's family came from "western types, one step above Amish" with its own history of bootleggers, strangeness, abandonment, and mental retardation.¹⁷² The severity and pervasiveness of major mental illness in Lisa's maternal family are remarkable and establish a genetic vulnerability to mental illness in her life. Family stories, descriptions of family members, and life history documents reveal a multigenerational predisposition to affective mood disorders, psychosis, and neurological deficits that claimed victims across time. Many of these disorders gave rise to aberrant and cruel behavior that resulted in family dynamics organized around trauma, strategies of coercive control, and shifting alliances. Family stories of mental illness start with a great, great ancestor – possible a great, great grandmother – who died in an insane asylum in Indiana. The stories culminate with two of Lisa's own grandchildren who have been diagnosed with autism and pervasive developmental disabilities.

In between the generations, an aunt was born with one hand and one of her children was born without an ear; another cousin was born with intellectual disability (mental retardation). One of Lisa's maternal cousins was diagnosed with bipolar mood disorder with psychosis and hospitalized multiple times; that cousin's daughter has likewise been hospitalized with bipolar mood disorder. Another maternal cousin has been hospitalized, treated with antipsychotic medication, and diagnosed with psychotic disorders; his daughter has also been hospitalized for mental illness. Yet another male cousin has also been described as mentally ill. Both of Lisa's

¹⁷² Attachment 2, Declaration of Lisa Rickert, incorporating report of Interview with Karl Lundmark. Karl is Lisa's mother Judy's maternal cousin.

maternal half brothers have received treatment for substance abuse, been incarcerated for criminal behavior, and have acted violently towards others. One of her half brothers has received antipsychotic medication for his nightmares, racing thoughts, auditory hallucinations, paranoia, and flashbacks. This extensive family history of maternal mental disorders provides a background for examining the manner in which Lisa's mother reared her and exerted control over her as an adult.

b. Judy Rignell (Lisa's Mother) Came From A Hardscrabble Background

Lisa's maternal family went through hard times and poverty on farms where everyone was required to work.¹⁷³ The family had more than its fair share of mysterious and suspicious behavior by Lisa's great grandmother, Maude Berry, who came from a Green, Kansas, family of bootleggers. Maude is said to have had between half a dozen and thirteen children, one of whom was Nelma, Lisa's maternal grandmother.¹⁷⁴ Maude was "strange" and "had odd ways. When she got mad she'd go and hide."¹⁷⁵ Somehow she ended up in Colorado with her first husband, Ed Rogers, a "drunkard" and "old hard dude," and at the age of only thirteen or fourteen years old started having children.¹⁷⁶ She had six or seven children with Ed, but planned to leave him. When Ed and his family learned Maude planned to leave him, they hid all but one of the children, a baby girl named Viola.¹⁷⁷

Maude no doubt surprised them when she left them all behind save young Viola, returned to Kansas, and divorced Ed Rogers. She married Emery Springer (Lisa's maternal great grandfather) in 1916 when Viola was one year old. Maude and Emery had three children:

¹⁷³ Attachment 2, Declaration of Lisa Rickert incorporating telephone call with Karl Lundmark 5-13-2005.

¹⁷⁴ Id.

¹⁷⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Karl Lundmark 5-31 -2005

¹⁷⁶ Id.

¹⁷⁷ Attachment 2, Declaration of Lisa Rickert incorporating telephone call with Karl Lundmark 5-13-2005.

Nelma (Lisa's maternal grandmother), William, and Samuel. William died at 10 days old. Samuel was an alcoholic, a "cowboy," who was in and out of jail for drunken behavior.¹⁷⁸ Samuel had a very dark and cruel reputation. He burned women and sold them, according to one of his nieces, Judy (Lisa's mother).¹⁷⁹ Samuel had a child born with mental retardation.¹⁸⁰ Samuel died when a train hit him, but no one knew if it was an accident, suicide, or homicide.¹⁸¹

Lisa's great grandfather, Emory Springer, owned a farm, and two Swedish men, Nils Rignell and John Algott Lundmark, came to the farm looking for work. They both ended up shucking corn on Emory's farm, and met and married Nelma and Viola respectively. Nelma and Viola were only a year apart but "hated each other" because Nelma "was in love" with John Lundmark, not Nils Rignell, whom she married. John Lundmark and Viola had four children: a boy who was stillborn, Esther, Elizabeth, and Karl.¹⁸² When John Lundmark died at 37, Karl was six years old and "ran to his grandfather's home," where Emory Springer raised him, despite the fact that Emory "had a brain tumor" that "made him think funny."¹⁸³ Karl lived in the home with Emory, Maude, and Samuel. Nelma, Lisa's grandmother, was already married to Nils Rignell.

Nils was brutal and beat Nelma, and the children watched helplessly. Nils "was very physically and verbally abusive" to Nelma, and Darlene tried to intervene and protect her

¹⁷⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Karl Lundmark 5-31-2005; Attachment 2, Declaration of Lisa Rickert incorporating "Chrono" Memo 7-20-2005.

¹⁷⁹ Attachment 255, Interview of Judy Shaughnessy 6-9-2006

¹⁸⁰ Attachment 2, Declaration of Lisa Rickert incorporating "Chrono" Memo 7-20-2005.

¹⁸¹ Attachment 2, Lisa Rickert interview with Karl Lundmark 5-31-2005.

¹⁸² Id., Esther was born around 1934; Elizabeth was born around 1939; and Karl was born 6-17-1937.

¹⁸³ Id.

mother.¹⁸⁴ ¹⁸⁵ Nils and Nelma had seven¹⁸⁶ children: Anna, Elsie, Ellen, Alice,¹⁸⁷ Darlene, Judy Karen¹⁸⁸ (Lisa's mother), and Bobby. Judy was born when Nelma was 44 years old. Nelma also had a child who died before Judy was born.¹⁸⁹ Nelma tended to the children and housekeeping while Nils farmed and worked for the City of Manhattan, Kansas, where the family lived until the Great Flood of 1951 that forced them to move to St. George, Kansas.¹⁹⁰ The farm produced corn, alfalfa and potatoes and had a big garden. Nelma canned and sewed their clothes. They had no indoor plumbing.¹⁹¹

Though details about her illness are inconsistent, the family agrees that when Nelma was a young mother she suffered from polio for several years. She may have been hospitalized for a time, and all siblings recall that she was sick in bed for a long period. The older sisters pitched in to help with the younger kids.¹⁹² Nelma's bout with polio occurred proximate to Judy's birth.¹⁹³ As an adult, Judy seemed devoted to her mother, to whom she was "kind."¹⁹⁴ Nelma's descendents reported mixed feelings about her: Lisa's brother Teddy thought she was cruel and

¹⁸⁴ Attachment 19, Declaration of Wendy Treibs.

¹⁸⁵ Attachment 117, Declaration of Darlene Alexander.

¹⁸⁶ Two family remembers reported only five children were born to Nelma and Nils: Ann, Judy, Alice, Ellen, and Bob. Attachment 2, Lisa Rickert interview with Alice Derry and Ellen Linderman (Judy's sisters) 6-3-2005.) Other family members reported Nelma and Nils had seven children: Ann born 1933; Elsie born in 1934; Ellen DOB 10-17-1936; Alice DOB 2-3-1940; Darlene DOB 4-6-1943; Judy born in 1947; and Bob DOB 12-18-1955.

¹⁸⁷ Alice, Lisa's maternal aunt, was born with one hand. Attachment 2, Declaration of Lisa Rickert, incorporating interview of Karl Lundmark 5-31-2005.

¹⁸⁸ Judy Karen Rignell (DOB 3-18-1947). Judy was born in Manhattan, Kansas and reared in St. George and Leonardsville, Kansas. Attachment 27, Hope Kleiner, Oklahoma Department of Human Services, Home Study, 7-18-2001.

¹⁸⁹ Attachment 28, Judy Rignell Birth Certificate.

¹⁹⁰ The Great Flood of 1951 in Kansas began in May and continued into June 1951 when between 8 and 16 inches fell July 9 and July 13. In Manhattan, the business district was under eight feet of water. By 7-13-1951, a total of 1,074,000 acres in Kansas and 926,000 acres (3750 km²) in Missouri were flooded. On 7-17-1951, President Harry Truman toured the damage by airplane, as far west as Manhattan, Kansas, and declared the disaster "one of the worst this country has ever suffered from water." (Davis, Kenneth (1953). *River on the Rampage*. Doubleday) Judy reported that this flood occurred in 1947, the year of her birth.

¹⁹¹ Attachment 2, Declaration of Lisa Rickert, incorporating interview of family members; Declaration of John Patterson.

¹⁹² Attachment 2, Declaration of Lisa Rickert, incorporating interview of Alice Derry and Ellen Linderman.

¹⁹³ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Karl Lundmark 5-31-2005.

¹⁹⁴ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Penny Craig 7-14-2005.

favored other grandchildren over Judy's children.¹⁹⁵ Lisa's children thought she was plain old mean.

c. Lisa's Mother Was Born In a Crucible of Violence and Betrayal.

Nils Rignell beat his wife at will and brooked no effort by his children to protect her. When one of his daughters found enough strength and courage to stand in his way, he threatened to kill her and from that day forward shunned her.¹⁹⁶ Judy, Lisa's mother, grew up in that home amid rumors and beliefs that her sister was not her sister, but her mother, raped by her father.¹⁹⁷ Judy had every reason to believe her father had impregnated her sister because, as Judy told it, he sexually assaulted her too.¹⁹⁸ Family members dispute Judy's version of events,¹⁹⁹ but regardless of its veracity, her version is an example of the destructive family secrets, shifting family alliances, and family betrayals that became hallmarks of Judy's adult life.

Judy's life trajectory shows a disturbed and deeply troubled woman who was unfit to parent or be in a position of control over the well being of others. By all accounts, Judy experienced erratic and intense mood swings that disrupted the lives of all around her. She was hyper-sexual and known around town as a "barfly."²⁰⁰ She lined up future husbands before she left current husbands.²⁰¹ She moved from one location to the next without consideration of the moves on others. She was irritable, aggressive, and shrewd, hiding her malevolence behind a mask of concern.²⁰² She mistrusted and accused family and friends of betrayal. She demonstrated an array of behaviors that strongly suggest mental impairment: hyper-sexuality,

¹⁹⁵ Attachment 31, Declaration of Teddy Kleiner.

¹⁹⁶ Attachment 117, Declaration of Darlene Alexander.

¹⁹⁷ Attachment 86, Declaration of David Owen.

¹⁹⁸ Id.

¹⁹⁹ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Alice Derry and Ellen Linderman

²⁰⁰ Attachment 83, Declaration of Jacqueline Moffett.

²⁰¹ Attachment 256, Lisa Green interview, 1-16-06

²⁰² Attachment 112, Declaration of Ann Walker-King.

mood swings, alcoholism, paranoia, irritability, and aggression. By far, though, the most distressing behavior she engaged in was her cruelty and control of Lisa. It is difficult to pinpoint the origins of Judy's brutal behavior towards Lisa, but it most reasonably lies in her own mental disorder, whatever its nature.

d. Lisa's Mother Was an Outsider in her Own Family.

Whether because she was the victim of incest or because she was experiencing the on-set of mental illness, Judy was a "troubled" teenager who ran away from home once.²⁰³ Her family referred to her as "wild and living the hard life" as a teenager. One of her sisters described her "as different from the rest of us" in the family.²⁰⁴ Judy described herself as being "cold, hard, and a survivor."²⁰⁵ Judy later described herself as "a strong and determined woman who has learned from her experiences."²⁰⁶

She did not complete high school and did not obtain her GED, and her poor education relegated her to unskilled employment as a clerk, laundry attendant, and other low paying positions.²⁰⁷ She earned her first reported income in 1966 from half a dozen different retailers for a total annual income of only \$700.²⁰⁸

e. Judy's First Baby Died.

A month shy of 19 and unmarried, Judy had a child who died at birth, Randy Lee Rignell.²⁰⁹ Randy was born and died on February 12, 1966, in Manhattan, Kansas. Randy was

²⁰³ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Alice Derry and Ellen Linderman, 3-10-2005

²⁰⁴ Attachment 87, Declaration of Alice Mae Derry.

²⁰⁵ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Judy Shaughnessy, 7-26-2005.

²⁰⁶ Attachment 27, Hope Kleiner, Oklahoma Department of Human Services, Home Study.

²⁰⁷ Id.

²⁰⁸ Attachment 32, Judy Shaughnessy, Social Security Administration Earned Income Statement.

²⁰⁹ Attachment 34, Certificate of Still Birth (Fetal Death) #66-000094 Kansas State Board of Health.

buried in a space in Sunset Cemetery in Manhattan called “Babyland,” where parents who could not afford a marker or plot could purchase a space to bury their babies.²¹⁰

f. Judy Had Seven Marriages, Six Children, and at Least Thirteen Step-Children.

Judy kept secret the details of her marriages, divorces, and liaisons with a series of men who raped, brutalized, and terrorized her children. She often misrepresented the facts of how they met, when they married, and when they divorced. She started relationships with men while they were still married. Each relationship overlapped with the next relationship. Judy selected men with unquestionable histories of battering and abandoning spouses and children. She empowered her husbands to beat Lisa and other children in the home without provocation and for minor infractions. The men often brought children from previous relationships to their marriages to Judy. Judy married seven times to men who had at least 13 children who were her stepchildren. She gave birth to six additional children with four men as their fathers. Great drama, turmoil, and feuds surrounded Judy’s marriages, separations, and divorces. Judy used Lisa and her siblings as pawns to further Judy’s advantage. Judy’s sisters described her life with her many husbands and troubled children as “Peyton Place.”²¹¹

²¹⁰ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Ramona and Joseph Rinniker, 6-1-2005. Ramona Rinniker is a genealogist and local historian related to Nelma Rignell. Ramona keeps information from the newspaper about anyone distantly related to herself.

²¹¹ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Alice Derry and Ellen Linderman, 6-2-2005.

Judy's Marriages and Divorces

| Name & Age of Spouse | Date of Marriage | Location of Marriage | Date of Divorce | Location of Divorce |
|-----------------------------|---------------------------|----------------------|---|--------------------------------------|
| Leo Barabash/21 | 6-9-1966 ²¹² | Manhattan, KS | 3-17-1967 ²¹³ | Saint Paul, Minnesota ²¹⁴ |
| John Hedberg (Patterson)/25 | 8-4-1967 ²¹⁵ | Miami, OK | 7-13-1971 (separated 12-1969) ²¹⁶ | Topeka, KS |
| Jack Kleiner/42 | 10-24-1974 ²¹⁷ | Miami, OK | 3-21-1985 ²¹⁸ | Tulsa, OK |
| Richard Boman/47 | 9-21-1989 ²¹⁹ | Vera, OK | 11-1990 ²²⁰ | Pahuska, OK |
| Richard Boman/47 | 1990 ²²¹ | N/A | 1996 ²²² | Deming, NM |
| Hector Ochoa/48 | 7-3-1997 ²²³ | Topeka, KS | 12-8-1999 ²²⁴ | Topeka, KS |
| Danny Shaughnessy/49 | 1-14-2000 ²²⁵ | Miami, OK | Separated 2012. | |

3. Judy Siphons Lisa's Reservoir of Resiliency.

a. John and Judy Met in a Bar.

Judy and John already had failed at one marriage each before they met, and had no way to know that their marriage to each other was to become the second of six marriages for each of

²¹² Attachment 34, Leo Barabash and Judy Rignell Barabash Divorce Decree.

²¹³ Id.

²¹⁴ Id.

²¹⁵ Attachment 35, John Hedberg and Judy Hedberg Divorce Certificate.

²¹⁶ Id.

²¹⁷ Attachment 38, Jack Kleiner and Judy Hedberg Marriage Certificate.

²¹⁸ Attachment 39, Kleiner v. Kleiner Divorce Transcripts.

²¹⁹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy 7-26-2005.

²²⁰ Id.

²²¹ Id.

²²² Id.

²²³ Attachment 42, Hector Ochoa and Judy Boman Marriage License.

²²⁴ Attachment 43, Ochoa v. Ochoa Petition for Divorce; Ochoa v Ochoa Final Divorce Decree.

²²⁵ Attachment 44, Danny Shaughnessy and Judy Ochoa Marriage Record.

them. Nor could they fully understand and appreciate the atmosphere of terror, fear, and abandonment they would create for the three children who lived in their home. Their consciousness was dulled and at times drowned in alcohol from the beginning to the end of their relationship.

Judy worked full time at a bar, as a bar girl, according to John,²²⁶ but Judy told others she worked at a Chinese restaurant.²²⁷ Judy picked up shifts at a breakfast restaurant, in order to hide her real job at the bar from her family. Judy's job at the bar, as a bar girl, was to sit with patrons and encourage them to drink more. When John met Judy, "she was basically drinking for a living, sitting with enlisted men in the bar where she worked, drinking with them and encouraging them to buy more alcohol from the bar owners."²²⁸ Judy's work records show she worked at the Palace Tavern in Junction City, Kansas, and at three other companies, earning a total of \$1,150.00 for the year.²²⁹ Judy and John "basically drank for fun."²³⁰ John "could drink two cases of beer a night, and Judy was right there"²³¹ with him. When John met Judy, he found her attractive, because "bar girls were known to be easier," and he "was looking for easier. She was available and willing."²³²

Judy had been raised in Kansas, on a farm near the Fort Riley Army base. The town near the base, Manhattan, Kansas, was extremely rural, and Judy's wild lifestyle would not have set well with her parents. Judy had to hide her real job from her parents by working occasionally at a local breakfast restaurant. John described the relationship between Judy's deceit of her parents and her parents' rural background:

²²⁶ Attachment 6, Declaration of John Patterson.

²²⁷ Attachment 2, Declaration of Lisa Rickert, incorporating interview with Judy Shaughnessy 3-14-2005.

²²⁸ Attachment 6, Declaration of John Patterson.

²²⁹ Attachment 32, Judy Shaughnessy, Social Security Administration, Earned Income Statement.

²³⁰ Attachment 6, Declaration of John Patterson.

²³¹ Id.

²³² Id.

Judy's parents were farmers. Her mother, Nelma Rignell, was from New Jersey, and her father, Nils Rignell, was from Sweden. They were absolute farmers. Judy's parents were conservative farmers. They didn't drink, so we made sure never to appear drunk when we went to visit them. The farm where Judy was raised didn't have running water or the modern conveniences you expect. Fort Riley, the Army base, was well equipped, but the town closest to the base was very rural. Judy's parents were at home in this small town. They thought Judy was a waitress in a respectable restaurant. Judy picked up shifts at this breakfast place. Her folks wouldn't have approved of her other job, sitting in a bar with enlisted men, encouraging them to drink.²³³

Judy established a pattern of going from one man to the next while still married to the first man. She had boyfriends at a very young age, and a husband even before she met John. John didn't know that Judy was already married when they first met, lived with another man at the time they met, obtained her first divorce while she lived with John, and married John less than five months after she divorced her first husband.²³⁴ John learned all of this after his relationship with Judy had imploded. John's sister didn't think Judy acted like other "women would act at that time. She was more forward. Judy was crazy. No one knew what Judy was up to."²³⁵ John's sister Mary later found out "while she was showing, while she was very pregnant, she (Judy) slept with one of my boyfriends."²³⁶ John "recognized that she moved from man to man kind of fast," but he thought that "it would be different" with him.²³⁷ John rented a house in Manhattan, Kansas, and Judy moved in with him.

b. Judy Bathed Lisa's Brain in Alcohol In Utero.

After dating for about a year, John and Judy married August 4, 1967, in Miami, Oklahoma; separated in December, 1969; and divorced August 2, 1971, in Shawnee County,

²³³ Id.

²³⁴ Id.

²³⁵ Attachment 5, Declaration of Mary Lee Coleman.

²³⁶ Id.

²³⁷ Attachment 6, Declaration of John Patterson.

Kansas.²³⁸ After John and Judy were married, John convinced his parents to send little Diane to them in Kansas. Diane had lived safely and happily with her grandparents until late 1967 when they “voluntarily gave the custody” of Diane to John, and his new wife.²³⁹ Judy had no intention of becoming a good mother to John’s daughter. She “wasn’t a very good mother. She was more interested in what she wanted than what a child wanted. Judy wasn’t interested in parenting.”²⁴⁰ Judy’s terrible parenting skills were soon even more tested; in the fall of 1967 Judy told John that she was pregnant.

John was stationed in Fort Riley, Kansas, until the end of 1967.²⁴¹ Before his next assignment, in Korea, John had some time free. John and Judy drove from Kansas to Washington State where they stayed briefly with John’s mother Marie and stepfather Gordon Hedberg. They rented the back of a house near John’s parents.²⁴² John’s brother, Tom, met Judy and concluded she was a “scatterbrain.”²⁴³ John’s sister remembered that shortly after marriage, “Judy turned up pregnant”²⁴⁴ in Washington state, and ended up staying near John’s family for a while. Little Diane lived in the rented apartment with her father and his new, pregnant, wife.

Judy did not make any effort to protect her unborn child and to have a healthy pregnancy. She and John continued their “lifestyle of going out drinking and socializing the entire time she was pregnant.”²⁴⁵ John only lived with Judy in Washington State for two weeks, so he “tried to

²³⁸ Attachment 35, John Joseph Hedberg and Judy Karen Hedberg Absolute Divorce or Annulment, Kansas State Department of Health.

²³⁹ Attachment 44, Diane Hedberg, State Department of Social Welfare of Kansas, Report to the Court, Probate Court of Saline County; Attachment 25, Diane Hedberg, Child in Need of Care, Riley County, Kansas, Case No. J-1040, 1972.

²⁴⁰ Attachment 5, Declaration of Mary Lee Coleman.

²⁴¹ Attachment 7, John Patterson, Military Records.

²⁴² Attachment 5, Declaration of Mary Lee Coleman.

²⁴³ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Thomas Allen Hedberg.

²⁴⁴ Attachment 5, Declaration of Mary Lee Coleman.

²⁴⁵ Attachment 6, Declaration of John Patterson.

make it fun for Judy in order to make her like living up near my parents.”²⁴⁶ John took her out several times, “to a tavern, bar or restaurant and eating and drinking.”²⁴⁷ In the late 1960s, there was little consciousness about the permanent harm drinking brought to unborn children, and no one challenged Judy’s drinking. John recollected how indifferent people were to serving pregnant women alcohol:

One time one of the waitresses at a bar asked for ID, and it was so funny because the waitress was actually pretending to ask my unborn child for ID! Another time Judy had to show ID to get into a bar, and we found out that she actually wasn’t old enough to be drinking in Washington State. The drinking age in Kansas was eighteen years old, and in Washington State it was twenty one years old. She worked in a bar in Kansas, so I figured she was old enough. That time, in Washington State, even though she was underage and very pregnant, they ended up letting us into the bar.²⁴⁸

Judy smoked and drank all the way through her pregnancy, whether or not her husband, John, was in the country. Socializing was Judy’s full time job, even with a three year old Diane and a new born Lisa at home. Judy did not work in 1968.²⁴⁹

John and Judy spent very little time together in Washington before he was shipped overseas in January of 1968. “Judy, John, and Diane lived around the corner from my parents, until John was stationed overseas again. John was sent off, and Judy was pregnant with John’s baby.”²⁵⁰ Judy was left with John’s child from a prior woman, and Judy didn’t know how to care for a child. When she had baby Lisa on February 27, 1968, Judy did not know how to care for the new baby either. Lisa was born at the base hospital at Fort Lewis, Washington.²⁵¹ Judy “ignored Diane, John’s first daughter,” and John’s mother Marie “had to show Judy how to care

²⁴⁶ Id.

²⁴⁷ Id.

²⁴⁸ Id.

²⁴⁹ Attachment 32, Judy Shaughnessy, Social Security Administration Earned Income Statement.

²⁵⁰ Attachment 5, Declaration of Mary Lee Coleman.

²⁵¹ Attachment 2, Declaration of Lisa Rickert, incorporation interview with Judy Shaughnessy, 4-14-2005.

for baby Lisa. Judy didn't change Lisa's diapers enough . . . Judy wasn't interested in parenting.”²⁵²

Judy forced four year old Diane to take care of the new born baby. Diane learned how to change Lisa's diapers and make her a bottle. Diane learned how to change baby Lisa's tiny clothing and to rock her when she cried. Diane tried to protect Lisa from Judy's abuse and Judy's drunken rages. Diane “loved that little baby from the moment” she “laid eyes on her and “doted on her.”²⁵³ At only four years old, Diane became Lisa's mother and protector as best she could:

Judy never cared for Lisa, and so I took care of Lisa all of the time. I was only four years old, but I acted like baby Lisa's mother. I fed her and changed her, I dressed her and took care of her. I protected baby Lisa from the fighting as best as a small child can. Judy never cared for Lisa, so I felt like I was Lisa's mother. I loved her like I thought a mother should, even though I never had had any example of motherly love from Judy.²⁵⁴

c. Terror Filled Lisa's Infancy.

Lisa's infancy and early childhood were spent in a fearful, terror-ridden home, witnessed and experienced by her older half-sister, Diane. Diane tried to take baby Lisa and spend as much time as possible at her grandmother Marie's house around the corner. Diane feared her time with Judy and described one experience indelibly stamped in her mind:

One time in Washington, Judy sent Diane down to her grandmother's. However, her grandmother wasn't home. Diane remembers being afraid to return to Judy's house. Finally, Judy came to retrieve Diane and began yelling at her. Diane remembers being very afraid.²⁵⁵

Judy controlled Diane by threatening to separate Lisa and Diane or threatening to send Diane away. Diane recollected that:

²⁵² Attachment 5, Declaration of Mary Lee Coleman.

²⁵³ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

²⁵⁴ *Id.*

²⁵⁵ Attachment 45, Declaration of Dani Waller, incorporating her interview with Diane Rae Hedberg Mattingly.

Judy's greatest pleasure was finding the one thing that I held sacred and destroying it. Judy exploited my greatest fear. Judy knew that my greatest fear was being sent away from my family. She saw that I found joy in being with baby Lisa. Judy tortured me by pretending that I was about to be sent away from the family, all of the time. She stripped me naked, packed all of my clothes into a suitcase, and forced me outside onto the stoop of the house. She told me that people were just about to come and take me away. I stood out on the stoop of the house, naked and afraid, many many times. Any time I found joy in something that Lisa did, Judy told me that I was just about to be taken away.²⁵⁶

Judy drank, socialized, and looked for boyfriends while John was out of the country. She came on to John's best friend, Ronald Figg (Ron). John found out about Judy's indiscretion when Ron wrote him and told him he would not be stopping by to check on Judy anymore. Judy had "tried to have sex with Ron, and Ron was offended that she could do that" to John."²⁵⁷ Ron confirmed Judy's behavior:

Judy got attached to me while John was out of town, and she tried to get tricky with me. She got too attached to me and I had to get rid of that. She was living next door to Marie and Gordon back then. She called me one night, late, and she was yelling at me. She told me 'if you don't come over here right now I am going to commit suicide! I will kill myself!' Well, I told her 'go ahead.' I am not getting involved in any of that. Judy was manipulative, crazy.²⁵⁸

Later in life John learned that Judy "was notorious on the base" and "was actually entertaining men" at John and Judy's home.²⁵⁹

d. Judy Wanted to Divorce John.

Judy didn't live next door to Marie and Gordon for very long. After she had the baby, Judy moved away. It must have been about 1968, and Mary, John's sister, "never heard from Judy again."²⁶⁰ Judy left Washington State when baby Lisa was about six months old, in the fall of 1968. Judy returned to Kansas to be closer to Nelma, her mother, and Ellen, her sister.

²⁵⁶ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

²⁵⁷ Attachment 6, Declaration of John Patterson.

²⁵⁸ Attachment 21, Declaration of Ronald Figg.

²⁵⁹ Attachment 6, Declaration of John Patterson.

²⁶⁰ Attachment 5, Declaration of Mary Lee Coleman.

“When Judy moved us down to Kansas, we lived for a while with her sister, Ellen. After a short while at Ellen’s house, Judy rented a house and the three of us moved into the rented house.”²⁶¹ While in Kansas, Judy wrote John a letter demanding a divorce, and “John came to Kansas, and he and Judy patched things up.”²⁶² ²⁶³ John “spent the night with Judy” and thought they “had reconciled and were back on track.”²⁶⁴ He returned to Korea.

In December of 1968 Judy wrote John again, telling him she wanted a divorce again. Since John was very close to the end of his tour in Korea, his supervisors allowed him another emergency leave. John flew from Korea to Kansas to try and reconcile with Judy for the second time. The “spent a couple of nights together” and John thought that he had “managed to patch up” their relationship.²⁶⁵ “On March 3, 1969, the Army assigned me to Fort Carson in Colorado.”²⁶⁶ John went to Colorado Springs, which is very near to Fort Carson, and bought a house. He signed the house over to Judy and put her name on the ownership papers, because he thought that “might make her want to stay” with him.²⁶⁷

In early 1969, Judy moved from Kansas to Colorado Springs, close by where John was stationed at Fort Collins.²⁶⁸ Judy took five year old Diane and one-year-old Lisa with her and moved into the house John had purchased. John was in and out of the home, as testified to by Judy during a hearing to place Diane up for adoption:

From December, 1967, until December, 1970, the natural father, being in the U.S. Army, was overseas a great deal of the time and during this time the said Diane Rae Hedberg was in the custody of her step-mother, Judy Hedberg, off and on . . . The

²⁶¹ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

²⁶² Id.

²⁶³ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Bob Rignell, Dan and Judy Shaughnessy, Ellen Linderman, Alice Derry, Darlene Alexander and Patty Baldwin, 3-10-2005.

²⁶⁴ Attachment 6, Declaration of John Patterson.

²⁶⁵ Id.

²⁶⁶ Attachment 7, John Patterson, Military Records.

²⁶⁷ Attachment 6, Declaration of John Patterson.

²⁶⁸ Attachment 2, Declaration of Lisa Rickert, incorporating interview with Judy Shaughnessy, 3-14-2005.

said natural father returned to the United States from overseas in December, 1970, and he became separated from his wife Judy Hedberg.²⁶⁹

Buying Judy a house had not repaired his damaged relationship with Judy in any way.

John explained that “[t]he house had two bedrooms, and Judy slept in one. I slept on the couch and a friend of Judy’s slept in the other bedroom. He was a boarder, a renter. Judy knew him from around town. One night while lying on the couch, I heard the boarder go into Judy’s room. I could hear everything that was going on in there.”²⁷⁰ Diane remembered the instability in the home:

John’s relationship with Judy was absolutely terrible. Judy paraded men in and out of the house constantly. She was not faithful to John, and the two of them got into terrible fights continually. Both John and Judy drank a great deal and the drinking did not help the fighting. I protected baby Lisa from the fighting as best a small child can. John lived in the house in Fort Collins for two weeks before Judy kicked him out. John went to live on the base, and Lisa and I stayed with Judy in the house that John had bought.²⁷¹

e. Judy and John Intentionally Hurt Their Children.

During John’s short periods with his family, he inflicted great harm. He had no tolerance for children and knowingly or unknowingly took the stress of soldiering out on Lisa and Diane. While living in Colorado, Diane told the story about a time she did “something wrong.”²⁷² John and Judy “stripped her naked, opened the front door and told her she had to leave. It was dark outside and she was crying. She begged them to let her stay. She doesn’t recall what she had done, but she remembers promising them to never do it again.”²⁷³

²⁶⁹ Attachment 25, Diane Rae Hedberg, Child in Need of Care Case, Riley County, Kansas, 1972, Preservation of Testimony of Judy Hedberg.

²⁷⁰ Attachment 6, Declaration of John Patterson.

²⁷¹ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

²⁷² Attachment 45, Declaration of Dani Waller, incorporating interview of Diane Rae Hedberg Mattingly.

²⁷³ *Id.*

John was too confused by constant drinking and his obsessive need to please Judy to pay attention to his children. John abused Diane and Lisa along with Judy, but in hindsight attributes most of the real abuse to Judy: “Judy spanked the girls, and she told me to spank the girls as well. I am ashamed to say that I did what Judy told me to do, and spanked my girls. I am ashamed to say that when Judy told me to go along with this abuse, I did.”²⁷⁴

Judy punished Lisa for making any noise, a tactic Judy used with increasing cruelty over Lisa’s life, ultimately resulting in Judy’s taping Lisa’s mouth shut with duct tape. John remembered when silencing Lisa started:

If Lisa played and made noise, Judy screamed at her. Judy yelled at the girls for acting just like little girls do. Judy belittled the girls, making them feel poorly about themselves. I could see it. I should have stopped it. At the time, I was drinking and trying to lose myself. Judy was a terrible mother and I regret not stepping in and making her stop abusing my girls.²⁷⁵

John and Judy fought constantly in front of Diane and Lisa. Judy’s rapid mood swings and her and John’s constant intoxication made things worse. Diane and Lisa observed it all, including physical fighting between Judy and John.²⁷⁶

Judy had a temper. If she got mad, she got mad quickly and stayed mad. She overreacted to any small thing I said. I had had it. Judy and I got into a knock down fight. She came home after being gone all night, and she acted like it was no big deal. I pushed her out of the front door and pulled her by the hair.²⁷⁷

Judy used stress positions, extreme temperature, and physical assault with objects to silence and control the girls. Diane described what Judy did to the little girls:

Judy was a very angry person. She shouted and screamed and yelled and hit us. Judy punished us in terrible ways. If little Lisa didn’t want to eat all of the food on her tray, Judy left Lisa strapped into her highchair for hours. If I didn’t eat all of my vegetables, Judy threw me into the shower by my hair and turned the taps on cold. Judy left me in the cold shower, naked and terrified, for hours. Judy spanked

²⁷⁴ Attachment 6, Declaration of John Patterson.

²⁷⁵ Id.

²⁷⁶ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

²⁷⁷ Attachment 6, Declaration of John Patterson.

my bare bottom, strapped me across the legs, and slapped me across the face with an open hand. She hit me on the head with a broom handle repeatedly.²⁷⁸

f. Lisa's First Sentence: "Don't Spank Me; It Hurts."

Diane was five years old when Judy moved her to Colorado, and Judy began to beat her and her baby sister, Lisa, consistently and frequently. She did not bother to:

act like she loved the girls at all. Judy was very authoritative towards the girls. She was hard on them. Judy slapped Lisa and Diane with the flat of her hand. She hit them in the head and in the face. Judy strapped the girls on the backs of their legs. If baby Lisa didn't eat everything on her high chair tray, Judy left her for hours at the table, strapped into the high chair, crying. Judy pulled Lisa and Diane by their pigtails and punished them for things that they did not understand. Judy was physically abusive of the girls, as well as emotionally and verbally abusive.²⁷⁹

Judy created an unsafe home for both girls and invited many men to the home. She allowed the men to sexually assault Diane, and Lisa witnessed the repeated attacks:

Judy never showed any love towards me, or towards Lisa. She never protected me from the men that she brought into the house. I shared a very small bedroom with Lisa and a man started coming into the bedroom and molesting me regularly. Little Lisa was in the bed next to mine every time. I never saw this man's face. I think it was the same man, but as a small child being molested, it is hard to tell.²⁸⁰

Judy's beatings, hyper-sexuality, and degrading treatment of Diane haunted Diane over the course of her life. Diane related the maltreatment she survived to her daughter Jessica, who learned the pervasive cruelty of her mother's early life and described it:

Judy had lots of boyfriends that came in and out of the house. One of Judy's boyfriends sexually molested my mom repeatedly. Judy never protected my mom from any of the boyfriend's sexual abuse . . . Judy was severely physically abusive of my mom, and Judy berated and yelled at my mom constantly. Judy didn't take care of my mom. Mom was hungry all the time. Judy forced my mom into cold water showers for hours at a time as punishment. Judy found out that the smell and taste of onions make my mom gag and Judy tried to force my mom to eat onions, just to laugh at her as she sat at the table, gagging violently.²⁸¹

²⁷⁸ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

²⁷⁹ Attachment 6, Declaration of John Patterson.

²⁸⁰ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

²⁸¹ Attachment 46, Declaration of Jessica Robinson Thompson Brown. Jessica Brown is Lisa's half-sister Diane Rae Hedberg Mattingly's daughter.

Lisa heard and saw it all, and Judy didn't spare Lisa any beatings just for being the youngest child. Later in life Judy bragged that when Lisa spoke her first sentence at eighteen months old, it was, "Don't spank me. It hurts."²⁸²

Judy's sister Ellen lived in Colorado Springs the same time Judy lived there with Lisa and Diane. John had bought the house for Judy not far from Ellen's home. Judy lied to her sister about cheating on her husband and her numerous short term sex partners. For a few months, Ellen babysat for Lisa when Lisa was about one year old.²⁸³ When Judy asked Ellen to do the babysitting, Ellen was "led to believe" Judy was working, but Ellen later found out Judy was cheating on John.²⁸⁴ Judy worked sporadically at a motel, and gas station, earning \$469 in 1969.²⁸⁵ Diane remembered that "Judy was drunk much of the time."²⁸⁶ Once John moved to the Army base, Judy felt she no longer had to hide her boyfriends, and she "behaved however she wanted to."²⁸⁷ John was babysitting Diane and Lisa one day when "two of Judy's boyfriends showed up in the front yard and got into a fistfight over Judy, right there!" inside the house with his daughters.²⁸⁸

During and after her marriage to John, Judy "often brought strange men home from the bars."²⁸⁹ Judy drank excessively and frequented bars near her home. She got into fights with these men after she brought them home, screaming and throwing things at them. On at least one occasion, Judy left one of the strange men at home in charge of the girls. He came into Diane and Lisa's bedroom and molested Diane. Lisa and Diane shared a room; if each stretched their arms

²⁸² Attachment 2, Declaration of Lisa Rickert, incorporating interview of Judy Shaughnessy 3-14-2005.

²⁸³ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Alice Derry and Ellen Linderman.

²⁸⁴ Id.

²⁸⁵ Attachment 32, Judy Shaughnessy, Social Security Administration, Earned Income Statement.

²⁸⁶ Attachment 46, Declaration of Jessica Robinson Thompson Brown.

²⁸⁷ Attachment 6, Declaration of John Patterson.

²⁸⁸ Id.

²⁸⁹ Attachment 45, Declaration of Dani Waller, incorporating interview of Diane Rae Hedberg Mattingly.

they could easily touch each other's hands.²⁹⁰ Lisa was in the room during that molestation and during all of the others.²⁹¹

g. John Kidnapped Lisa and Diane.

John's relationship with Judy was over. Judy no longer had to hide her boyfriends from John, as he was living full time on the nearby Army base and preparing to ship off on another overseas tour of duty. John minimized what he next did, but other family members reported that John kidnapped and disappeared with Lisa and Diane. John explained the incident differently:

Finally one day, I had had enough. Judy was gone from the house and I told the little girls we were going on an adventure. I knew where there was an empty barracks with no men assigned to live there. I told the little girls we were going on a sleep out, and the three of us snuck into the empty barracks. I told the girls to be very quiet, that it was an adventure. We stayed in the barracks for a couple of nights before Judy figured out where we were. Judy busted onto the base, yelling and screaming, and she took the girls from me and went back to the house that I had bought. Judy told me that she could report me for kidnapping. I told her that I took the girls away for some down time away from Judy's anger and Judy's bad moods.²⁹²

John's self-serving description of this event did not minimize its impact on Lisa.

Although family members disputed the facts, all agreed that John took Lisa and Patty and hid them from Judy for some period of time. Judy's elaborate explanation of the event revolved around a trip she and John made to Texas when Lisa was three years old. According to Judy, she and John drove to Texas to help some friends who were injured in a terrible explosion in which a "baby had died."²⁹³ Nelma agreed to take care of Lisa and Patty while Judy and John went to Texas. They were gone three or four days. Upon their return, Judy learned that one of the adults also died, so Judy "returned to Texas to help."²⁹⁴ While Judy was gone, John "took the kids and

²⁹⁰ Id.

²⁹¹ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

²⁹² Attachment 6, Declaration of John Patterson

²⁹³ Attachment 2, Declaration of Lisa Rickert, incorporating interview with Judy Shaughnessy, 4-14-2005.

²⁹⁴ Id.

gave them to the same family he gave Diana (Diane) to.”²⁹⁵ John refused to tell Judy where the children were. Judy “eventually got them back after three weeks,” and both little girls “appeared to be cared for” in Judy’s version of the kidnap.²⁹⁶

Shortly after this kidnapping, John shipped off for his second tour of duty in Vietnam. After John shipped out, on December 7, 1969,²⁹⁷ Judy sold the house in Fort Collins, Colorado, and moved back to Kansas.²⁹⁸ She was pregnant with a new baby.

Patty, Judy’s third baby, was born June 3, 1970,²⁹⁹ and Judy abandoned Lisa and Patty to the care of their seven year old big sister Diane. Diane was devoted to her two baby sisters. The little girls “were the joys” of Diane’s life.³⁰⁰ Diane became the chief caretaker for Lisa and Patty, even though Judy did not work in 1970.³⁰¹ Diane changed diapers, dressed the babies for bed, got them up in the morning, dressed them for the day, and cooked their meals. She also took physical punishment and abuse from their mother, Judy. Judy hit Diane – who was now seven, and eight years old and of slight frame – with “broom stick handles or whatever was in her hands,” poked her in the chest, and yelled in her face.³⁰²

Judy picked up dating numerous boyfriends again, upon settling back into life in Kansas. Numerous men caused myriad problems, particularly when they found out about one another. Fights were common between Judy and her partners. On one occasion, as Judy tried to shove one man out the door, Diane “put Lisa behind her and had Patty clinging on her hip. She backed them all up into a corner, holding them as tight as she could to keep them out of the line of fire.”³⁰³

²⁹⁵ Id.

²⁹⁶ Id.

²⁹⁷ Attachment 7, John Patterson, Military Records.

²⁹⁸ Attachment 6, Declaration of John Patterson.

²⁹⁹ Attachment 37, FBI Interview with Patty Hedberg Baldwin 1-28-2005.

³⁰⁰ Attachment 46, Declaration of Jessica Robinson Thompson Brown.

³⁰¹ Attachment 32, Judy Shaughnessy, Social Security Administration Earned Income Statement.

³⁰² Attachment 45, Declaration of Dani Waller, incorporating interview of Diane Rae Hedberg Mattingly.

³⁰³ Id.

h. John Changed After the His Second Tour in Vietnam.

John's time in Colorado was up. He was slated for a second tour of duty in Vietnam, and he knew that this time would be vastly different than his first time there. John recalled that his first tour of duty in Vietnam was a quiet one, full of fun and sun, drinking and girls:

I was sent to Cahn Rahn Bay in Vietnam on May 13, 1965.³⁰⁴ Cahn Rahn Bay is a harbor in Vietnam that was used by the Japanese troops during World War II. Later the United States Army used it during the Vietnam War. Cahn Rahn Bay is a beach, tropical and beautiful. Vietnam that time was relatively quiet, for me. I was working a desk job, doing paperwork. I was enjoying myself in Vietnam thoroughly, drinking and meeting girls and having a crazy night life. I was young and dumb and unmarried, drinking constantly and having lots of sex. Cahn Rahn Bay is on the beach, in a very tropical setting.³⁰⁵

In the three years between John's tours of duty in Vietnam, the country had changed. War had intensified. Soldiers were being killed and the Army was using defoliating pesticides around the bases. John reminisced:

The fall of 1969 I was working on base at Fort Cason, and preparing to be shipped off to Vietnam. On December 6, 1969 I was shipped off to Vietnam. I lived in Fort Carson, Colorado for only six months, but it had been a chaotic six months. I was sad to be leaving my girls, but I was relieved to get away from Judy. Vietnam the second time around was a much different experience than when I was there in 1965 and 1966. . . . Vietnam in 1969 was much, much different than in 1965. When the plane dropped us off in Saigon, Vietnam, this time the pilot had to circle the city for over an hour because the base below was being hit continually with mortars. Finally the pilot dropped us off and told us to run straight for the bunkers as fast as we could. The base got hit with mortars and gunfire all the time. Vietnam didn't feel safe. At night the fighters hiding in the hills near the base ambushed people and cut their heads off. One evening the people in the hills ambushed and killed a bunch of our people. In the morning the enemy threw cut off heads down on us. It was a terrible thing to see. It stayed with me.³⁰⁶

Agent Orange was used all around John's base. John described his exposure to Agent Orange:

³⁰⁴ Attachment 7, John Patterson, Military Records.

³⁰⁵ Attachment 6, Declaration of John Patterson.

³⁰⁶ Id.

The army sprayed Agent Orange all around the base, in order to defoliate the trees. The Army hoped that this might make fighting in such a strange, tropical terrain easier for our troops. The Agent Orange stripped everything off of everything, not just the leaves off the trees. It took the bark off too, and all the ground vegetation and killed all the animals. Now we know so much more about the damage that Agent Orange caused our enlisted troops, including myself, but at the time we had no idea what it did. The Army thought they were helping us.”³⁰⁷

There was no rest in Vietnam, and nowhere to feel safe. John developed post-traumatic stress disorder, sleep disturbances, night terrors and cold sweats that woke him up.³⁰⁸ He described his hyper-vigilance:

I was on high alert the entire time I was in Vietnam in 1969 and 1970. The mortars went off constantly, and the retaliation of Army bullets filled the sky. Every fifth bullet was a tracer, so the red lines in the sky were constant. The tracer bullets were so thick that when I looked up into the sky, it appeared as if I could walk up a bridge of light into the sky. The guns just rattled out hundreds of bullets all day and all night. Every so often when you were outside you’d see bam bam bam, enemy sniper bullets coming straight at you, blasting up the dirt as they headed towards you. That’s when you had to hustle to get to the bunker! ³⁰⁹

John suffers from the effects of his second tour in Vietnam to this day. His current wife described his struggle with the disorder:

I have wondered if John was exposed to Agent Orange in Vietnam. John still suffers nightmares, or night terrors, in his sleep. I think that they are from things he saw and things that happened to him while he was in the service. It can make him feel like he is having an anxiety attack. When John is having night terrors he does not know who is trying to touch him or who is trying to wake him up. He told me that he is not here when he has the nightmares, but he is somewhere else inside the dream. Now when he has nightmares I know not to try and wake him. John also has tremors in his hands and arms, as well as neuropathy in his feet.³¹⁰

John’s time in Vietnam changed him. He no longer felt safe, anywhere. Even John recognized that his “drinking was becoming a problem.”³¹¹ John was “depressed, smoked

³⁰⁷ Id.

³⁰⁸ Id.

³⁰⁹ Id.

³¹⁰ Attachment 8, Declaration of Christina Juarez Patterson.

³¹¹ Attachment 6, Declaration of John Patterson

marijuana, and slept a lot,” common behaviors for soldiers who served in Vietnam.³¹² John’s sense of safety was gone, and he slept poorly – when he slept at all. Nightmares about his friends and fellow enlisted men plagued his nights, and tremors and numbness in his feet plagued his days. In March 1970 John was promoted to Supply Sergeant for the remainder of his time in Vietnam.³¹³ Two months later John got a letter from Judy, telling him that she had given birth to his daughter, Patty, on June 3, 1970, and John believed Patty was his until he “actually laid eyes on Patty.”³¹⁴ When he finally caught up with Judy and saw Patty, he “could tell immediately that she was not [his] biological daughter. Patty has very dark coloring, almost Middle Eastern or American Indian looking.”³¹⁵ John was “not surprised, the way Judy ran around.”³¹⁶

i. John Returned to the Family from Vietnam, then Completely Disappeared from Lisa’s Life.

John came back to the United States from his second tour of duty in Vietnam on December 30, 1970.³¹⁷ Even Judy recognized that when John returned from Vietnam, he “never came back the same.”³¹⁸ Judy saw that John “couldn’t handle being around a wife with small children,” given what he had gone through in Vietnam and the recurring nightmares he had.³¹⁹ John’s mother believed the war made John “afraid of women and children because you didn’t know if they would kill you.”³²⁰ She believed John tried to “keep his pain inside,” but he acted “uptight” and “defensive.”³²¹ John was “angry and disturbed.”³²²

³¹² Attachment 2, Declaration of Lisa Rickert, incorporating telephone interview with Thomas Allen Hedberg.

³¹³ Attachment 7, John Patterson, Military Records.

³¹⁴ Attachment 6, Declaration of John Patterson.

³¹⁵ Id.

³¹⁶ Id.

³¹⁷ Attachment 7, John Patterson, Military Records.

³¹⁸ Attachment 257, Hope Kleiner, Department of Human Services, Home Study, 3-7,12 and 16-2000.

³¹⁹ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Judy Shaughnessy, 7-26-2005.

³²⁰ Attachment 2, Declaration of Lisa Rickert, incorporating telephone interview of Marie Stelma.

³²¹ Id.

³²² Attachment 2, Declaration of Lisa Rickert, incorporating interview of family members 3-10-2005.

John immediately tried again to reconcile with Judy, but the effort was ill fated. Judy hadn't changed since John had seen her last. John described his encounter with Judy:

I really did think that I loved Judy, so I flew down to Kansas, where she was living. When I got there I went to the address she had given me. I could see Judy inside the house with her new boyfriend. Judy saw me through the window and came outside. She seemed happy to see me. She went back in the house, kicked her new boyfriend out and brought me inside. I thought we were reconciling. I was happy. I spent the night with Judy, and we had a night of passion. In the morning she asked me for all the money I had on me, and I foolishly gave it to her. Then she kicked me out of the house! I had nowhere to go! When I protested and told her that I thought we were back together, Judy snubbed me. She told me I was lucky to have just had the best sex of my entire life, and that was all I was getting. She took my money and kicked me out. Lisa was only two years old, and Patty, the new baby, was only a few months old.³²³

John was almost kicked out of the Army for what he decided to do next. He "was supposed to have reported back to the Army" for orders by the first week of January 1971.³²⁴ John went AWOL "trying to get back with Judy there in Kansas," and the army cited him for excessive leave repeatedly in the month of January.³²⁵ When January and February passed, John "knew that it was really over" with Judy and that he "couldn't win her back."³²⁶ Judy had moved on and "was living with her new boyfriend."³²⁷ John slowly understood that "maybe, she never cared" for him.³²⁸

Lisa turned three years old on February 27, 1971, and John "stuck around" Kansas long enough to attend the small birthday party that Judy had for her.³²⁹ "It wasn't much,"³³⁰ but John wanted to be there. On March 1, 1971, the Army assigned John to Grosse Auheim base in

³²³ Attachment 6, Declaration of John Patterson.

³²⁴ Id.

³²⁵ Attachment 7, John Patterson, Military Records.

³²⁶ Attachment 6, Declaration of John Patterson.

³²⁷ Id.

³²⁸ Id.

³²⁹ Id.

³³⁰ Id.

Hanau, Germany.³³¹ John completely disappeared from Lisa's life. "I didn't see them again until my daughter Lisa's trial started and defense counsel introduced us to one another again, after 35 years."³³²

Opinions and memories about why John left his children with Judy vary. John remembered that he thought he had no other choice, although his sister, Lori Mae, disputes that. Lori Mae believed that "Mom loved Diane with all of her heart. She doted on little Diane. She would have taken Diane back in to our house."³³³ Other family members recalled that John needed to escape from the children altogether, and that's how the girls were left under Judy's cruel and controlling thumb. John "didn't like screaming children."³³⁴ Some family members recalled that John's experiences in Vietnam had traumatized him to the level where he himself did not feel "that the kids would be safe around him."³³⁵ Why John left Diane, who was not related to Judy in any way, and Lisa, his and Judy's daughter, with Judy is debatable. Their fate is not debatable. Both little girls were beaten, raped, and humiliated well into their adulthood. Both were helpless to protect themselves but they clung to each other until Judy exiled one of them.

j. Judy Exiled Diane from the Family.

John was gone, and Judy lived in Kansas with Diane, Lisa and Patty. At the end of 1971 when John and Judy formally divorced,³³⁶ Judy became ineligible for financial benefits from the military or social services for Diane. Family stories about Judy's decision to abandon Diane and return her to social services vary from one family member to the next and change over time.

³³¹ Attachment 7, John Patterson, Military Records.

³³² Attachment 6, Declaration of John Patterson.

³³³ Attachment 12, Declaration of Lori Mae Yates.

³³⁴ Attachment 2, Declaration of Lisa Rickert, incorporating telephone interview with Marie Stelma.

³³⁵ Attachment 2, Declaration of Lisa Rickert, incorporating interviews with the family members 3-10-2005.

³³⁶ Attachment 6, Declaration of John Patterson. Attachment 35, Divorce certificate of Judy Hedberg/John Hedberg Patterson.

John remembered that “The adoption people wrote me a letter and I told them that Diane living with Judy was a totally unacceptable situation and that I didn’t want Diane to remain at Judy’s home. The adoption people didn’t contact me again, and later I learned that Diane was removed from Judy’s home and placed up for adoption.”³³⁷ Marie reported that one day a woman called her and asked her if she “wanted” Diane.³³⁸ Marie told the woman that yes she wanted Diane and that she felt Diane should be raised by her father, “but the adoption people never called her back to arrange anything.”³³⁹ “The woman hung up and that was the last” Marie heard about Diane.³⁴⁰ Marie learned later Diane was adopted, and Marie proclaimed that had she known that was what the call was about she would have taken Diane.³⁴¹

Judy claimed she wanted her sister Ann to adopt Diane but Ann declined.³⁴² Judy’s version of what happened to Diane is very brief. According to Judy, when John came back in 1971 he took Diane and gave her to a family and she was eventually adopted by someone.³⁴³ Judy also claimed that John took Lisa and Patty to this same family when he kidnapped them.³⁴⁴ Diane was eight years old when Judy ejected her from Lisa’s life. Diane told the full story of her experience:

When I turned eight years old Judy sent me away. Across the street from Judy’s rented house in Kansas was a woman with a last name of Paine. Her children lived on a farm in Kansas and Judy sent me to go live with them. They neglected me just as Judy had. One day I fell down a flight of stairs and I really hurt my neck. The Paines did not take me for medical care, and my neck was permanently injured. At some point the Paines finally did take me to a doctor, and the doctor turned us away. He said that the Paines had no legal right to be taking me to a doctor, since they were not legal foster parents. He questioned how I had ended up with them. The

³³⁷ Attachment 6, Declaration of John Patterson; Attachment 25, Riley County Records Child in Need of Care case #J-1040, 1972.

³³⁸ Attachment 2, Declaration of Lisa Rickert, incorporating telephone interview of Marie Stelma.

³³⁹ Attachment 12, Declaration of Lori Mae Yates.

³⁴⁰ Attachment 2, Declaration of Lisa Rickert, incorporating telephone interview of Marie Stelma.

³⁴¹ Id.

³⁴² Attachment 2, Declaration of Lisa Rickert, incorporating interviews of Alice Derry and Ellen Lindeman.

³⁴³ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Judy Shaughnessy, 4-14-2005.

³⁴⁴ Id.

Paines returned me to Judy. Judy had moved while I was gone. Now she lived in Ogden, Kansas.³⁴⁵

Diane was not to stay with Judy for very long, after the Paines finally tracked Judy down and returned Diane to her. Diane returned to her role of caring for Lisa and Patty:

I didn't know at the time, but the Board of Child and Protective Services was already watching me. When the Paines took me to the doctor, the Kansas Social Services people took note of me. I returned to Judy's house in Ogden. I re-entered my role of caring for the girls, and Judy continued to abuse me verbally, emotionally and physically. Judy again left me vulnerable to sexual abuse by her many boyfriends.³⁴⁶

At some point Judy and Diane talked about where Diane could go and live. Diane brought up moving to Washington State to live with Grandma Marie and Grandpa Gordon Hedberg, but Judy lied to keep Diane from returning to a loving family. Diane described the lie Judy told:

Judy told me that John's mom, Grandma Marie, was dying. She told me that I would never see Grandma Marie again. I was heartbroken. Grandma Marie showed me love and affection that I craved. I mourned Grandma Marie's passing for a long time. I was an adult before I found out that Judy had lied to me and that Grandma Marie was alive and well in Washington. What a cruel thing to do to a small child.³⁴⁷

Judy also told the social workers that moving Diane to her grandparents' home was no longer an option.

The day Diane was taken away from Lisa is indelibly stamped on her mind. Judy told Diane "it was her own fault" and "her choice."³⁴⁸ Diane knew as soon as she saw the social workers at Judy's door that "she was being taken away."³⁴⁹ In February 1972 two social workers came to Judy's house. Diane described what happened next:

³⁴⁵ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

³⁴⁶ Id.

³⁴⁷ Id.

³⁴⁸ Attachment 45, Declaration of Dani Waller, incorporating interview of Diane Rae Hedberg Mattingly.

³⁴⁹ Id.

The case worker assigned to me sat and talked to Judy. They talked about places that I could go and live and have a permanent home. Judy told the social worker that my Grandma Marie was dead. The social worker took me away! As I was leaving Judy leaned over and told me that I was being taken away from her because I was bad. She told me it was my fault! What a terrifying thing for a young girl to hear. I clung to Lisa as I was leaving. I knew deep down that if I left for good, the sexual abuse that I had continually experienced while living with Judy would start to happen to Lisa. I knew that when I left no one would take care of baby Patty. Lisa was only four years old so I knew that she couldn't care for a new baby.³⁵⁰

Lisa and Patty sat with Diane on the couch and tried to console her by hugging her. Diane was nervous and so upset that she kept vomiting. The caseworker who took her away had to pull her car over, because Diane continued to get sick. Diane felt she was leaving her two sisters behind, without protection. She was "leaving them to the wolves."³⁵¹

The most unbiased documents of events surrounding Diane's disappearance from the family are found in court records that document Judy and John's abandonment of her. Diane's account of her abandonment and loss of her sisters is consistent with court records: In June, 1970, while John was overseas, Judy sent Diane to live with Mr. and Mrs. Ed Paine in Topeka, Kansas, without any kind of court supervision or approval. John returned to the U.S. in December, 1970, and he and Judy separated. John returned overseas. In June, 1971, the Paines returned Diane to Judy's house. They wanted to adopt Diane, but stated that John refused to relinquish legal custody.³⁵² Judy and John formally divorced on July 13, 1971.³⁵³ Judy returned to motel work and earned \$616.40³⁵⁴ and received Aid to Dependent Children. Judy contacted Kansas social services and informed them she was not married to John any longer and "had just

³⁵⁰ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

³⁵¹ Attachment 45, Declaration of Dani Waller, incorporating interview of Diane Rae Hedberg Mattingly.

³⁵² Attachment 25, Diane Hedberg, Child in Need of Care Case No. J-1040, Riley County, Kansas, 1972, Report to the Court

³⁵³ Attachment 35, Hedberg v Hedberg Divorce Records.

³⁵⁴ Attachment 32, Judy Shaughnessy, Social Security Administration, Earned Income Statement.

taken into her home her step-daughter.”³⁵⁵ Social services filed a Petition in the Juvenile Court of Riley County to have Diane declared a dependent and neglected child.³⁵⁶

In its report to the court, social services concluded “this child’s needs have been totally ignored by the adults who have charge of her and it is felt that she is in need of protection.”³⁵⁷ On February 14, 1972,³⁵⁸ Judy officially turned over Diane to the Kansas Department of Social Welfare. Following a hearing on March 28, 1972,³⁵⁹ at which Judy testified, the court found that Diane was indeed a dependent and neglected child. Social services placed Diane with a foster family until May, 21, 1973, when she was adopted by a family in Salina, Kansas.³⁶⁰ Judy told her own family members that “Diane was later adopted by some other family.”³⁶¹

Lisa learned that Judy was powerful enough to exile her sister. Lisa grieved for her missing sister. Twenty years later, Lisa searched the internet to try and find Diane to fill in that aching memory, but to no avail.³⁶² Diane blamed herself for the loss of her baby sister, Lisa:

As I grew to be a teenager I began to feel depression. I was depressed for weeks at a time. I blamed myself for being taken away from Lisa, and I blamed myself for

³⁵⁵ Attachment 24, Diane Hedberg, State Department of Social Welfare of Kansas, Report to the Court, Probate Court of Saline County; Attachment 25, Diane Hedberg, Child in Need of Care, Riley County, Kansas, Case No. J-1040, 1972.

³⁵⁶ *Id.*

³⁵⁷ *Id.*

³⁵⁸ *Id.*

³⁵⁹ *Id.*

³⁶⁰ Foster care and adoption placements failed to protect Diane from further harm. “None of the foster homes or adoptive families were better than living with Judy. I experienced emotional terror, pain and verbal abuse at every single house I was placed at.” (Attachment 9, Declaration of Diane Rae Hedberg Mattingly) Diane was removed from the first adoptive family after a year and a half due to multiple bruising from severe spankings. (Attachment 47, Diane Hedberg, Central Kansas Mental Health Center) “The Borsdorf family was no better than Judy had been. Eventually a neighbor took my mom, all beat up, to the police. The police removed my mom from the Borsdorf home and the State took my mom and placed her up for adoption again.” (Attachment 46, Declaration of Jessica Robinson Thompson Brown, daughter of Diane Rae Hedberg Mattingly) Diane was placed in a foster home with foster parents named Bushyhead who formally adopted her on 8-13-1975, and then moved with her to Holland, where her adoptive father began to sexually assault her. (Attachment 48, Ron Ninemire and Dani Waller interview with Diane Rae Hedberg Mattingly). “Jesse Bushyhead sexually abused my mom while she was his adopted daughter. He did it more than once. He also used to invite his friends over to watch pornographic movies, and make my mom sit in the same room with them. At the time, my mom was only 16 years old!” (Attachment 46, Declaration of Jessica Robinson Thompson Brown, daughter of Diane Rae Hedberg Mattingly).

³⁶¹ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Alice Derry and Ellen Linderman.

³⁶² Attachment 258, Diane Rae Hedberg, Adoption Registry 1-6-2004.

not being able to protect Lisa from Judy. I went over scenes in my head over and over again, torturing myself with what I could have done. I lived in a state of depression for two dozen years or more after I was removed from Judy's home. Judy's home was a terrible place to live. Judy neglected us, abused us, verbally belittled us and told us that we were less than nothing. But Judy's house was my home, and my sisters were there, so I missed it.³⁶³

4. A Psychosis-Inducing Childhood

John's absence from his family was not long mourned. Judy had sexual relationships with other men during her marriage, and most family members early on speculated that her second living child, Patty, was not John's child. Patty had a very dark complexion, did not resemble other family members, and was called "nigger baby" by her mother.³⁶⁴ Judy recounted that she met her next husband, Jack Kleiner,³⁶⁵ who was 14 years her senior, at an auto salvage store, but others reported that she met Jack at a bar.³⁶⁶ Judy drank her way through much of the 1970's with Jack. She earned only a total of \$461 in 1972, 1973, and 1974 and reported no income in 1975 or 1976.³⁶⁷

Although the original place of their meeting may be uncertain, the catastrophic consequences of their meeting and subsequent marriage on four year old Lisa are certain. Long before Jack entered Lisa's life and began his campaign of terror against her, he honed his skills in abusing, maltreating, and humiliating his family in his first marriage.

³⁶³ Attachment 9, Declaration of Diane Rae Hedberg Mattingly.

³⁶⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

³⁶⁵ Attachment 49, Death Certificate of Jack Kleiner.

³⁶⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

³⁶⁷ Attachment 32, Judy Shaughnessy, Social Security Administration, Earned Income Statement.

a. Who Was Jack Kleiner?

Jack Kleiner³⁶⁸ made his first family's life "hell."³⁶⁹ Jack and his wife Willadean had five children,³⁷⁰ all born in Manhattan, Kansas, and Jack terrorized them with predictable and enduring consequences on his children. Jack was "controlling, irrational, and volatile" and punched, kicked, and choked his children who "lived in constant fear of what would happen next."³⁷¹

Jack's daughter Penny had "nightmares from all the screaming and yelling."³⁷² Penny developed bi-polar mood disorder, had a 25-year long methamphetamine addiction, and began sniffing paint when she was 17.³⁷³ She is on disability for mental health issues.³⁷⁴ At one point, Penny was in jail with her youngest son while her oldest son was wanted, all on the same drug charge.³⁷⁵ Penny was treated with powerful antipsychotics and antidepressants at different times, including Risperdal, Lexapro, Seroquel, Wellbutrin, and Zoloft.

During a 2006 inpatient treatment program for addiction,³⁷⁶ Penny was diagnosed with major depressive disorder, recurrent, and methamphetamine dependency.³⁷⁷ She reported being distractible, anxious, depressed, and unable to concentrate or focus and having auditory hallucinations in her lifetime that were not the result of drug use. It was hard for Penny "to

³⁶⁸ Jack Kleiner, DOB 7-26-1932 DOD 9-15-2009 was the youngest of six children: Alberta Kleiner, Maxine Kelsy, Arlene Knowles, Darlene Webster, and Jerald Kleiner. (Attachment 50, Jack Kleiner, Obituary)

³⁶⁹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

³⁷⁰ Attachment 45, Declaration of Dani Waller incorporating interviews with Becky Perky and Jackie Moffett 8-16-2006; Becky Kleiner (DOB 10-3-1952); Jackie Jo Kleiner (DOB 2-23-1954); Timothy Kleiner (DOB 5-18-1956) Penny Lee Kleiner (DOB 8-18-1961); and Terry Kleiner (DOB 12-13-1965 DOD 9-26-2005); Attachment 52, Jack Kleiner – Willadean Kleiner v. Jack Kleiner Divorce Riley County Case 17, 260.

³⁷¹ Attachment 82, Declaration of Becky Perky.

³⁷² Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

³⁷³ *Id.*

³⁷⁴ Attachment 85, Declaration of Penny Craig.

³⁷⁵ *Id.*

³⁷⁶ Attachment 51, Penny Craig 12&12 Center for Addiction Treatment and Recovery Records.

³⁷⁷ *Id.*

think.”³⁷⁸ She worried “a lot about things” so much her “head hurt.”³⁷⁹ At 42 years of age, she was unable to work due to chronic mental health and physical problems and received Social Security Disability Income (SSDI).³⁸⁰ She reported that her little brother died in December of 2005 and that her grandfather owned a honky tonk and her grandmother was a bootlegger. Penny described herself as big hearted, patient and a good listener.³⁸¹

Tim, one of Jack’s two sons, was not married and had no children. Tim was a “loner,” who “work[s] temporary jobs.”³⁸² He lived with his mother until she died on July 12, 1999, when he was 43 years old. In 2005, six years after his mother’s death, he was “still grieving.” Terry, Jack’s other son, separated himself entirely from his family of origin and refused to “see any of his family,” even when they traveled to his home. Terry also never married or had children. He was described as “withdrawn” and “a loner”³⁸³ before he died in 2005 from complications of diabetes.

At least two of Jack’s children recognized that “something” was mentally wrong with him but they did not understand how he became that way.³⁸⁴ His children “begged their mother to divorce their father.”³⁸⁵ He was an alcoholic, a controlling tyrant who “was always mean and got meaner when he drank.”³⁸⁶ He came home from work foul tempered, demanding supper at a certain time, water to soak his feet, and rum and cokes, behavior that he duplicated with Lisa and her siblings. He spread out on the couch all night and watched television while his wife waited

³⁷⁸ Id.

³⁷⁹ Id.

³⁸⁰ Id.

³⁸¹ Id.

³⁸² Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

³⁸³ Id.

³⁸⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

³⁸⁵ Id.

³⁸⁶ Id.

on him and tried to appease him.³⁸⁷ Jack owned race cars, went to car races, and was the flag person. His son, Tim, “loved going to the races,” but Jack rarely took him and told the youngster he had no room in the car because one of Jack’s girlfriends was in the car.³⁸⁸

Jack publically degraded and humiliated his wife, Willadean. Jack and Willadean were married on March 8, 1952, in Manhattan, Kansas, when Willadean was just sixteen years old.³⁸⁹ Willadean married Jack after she became pregnant in the eighth grade and withdrew from school.³⁹⁰ Jack’s sexual attraction to teenagers was well known in his family.³⁹¹ After Jack and Willadean married, he often did not come home at night but rather drove around their small hometown of Manhattan with other women not caring “who knew he slept with other women.”³⁹² Jack had an affair “every time Willadean got pregnant”³⁹³ Family members knew that “Jack cheated on his first wife.”³⁹⁴ His children were “shunned” if they “told anyone their father was Jack Kleiner,” so one daughter told people their father was their Uncle Gerald Kleiner.³⁹⁵

Willadean was overweight, and Jack “called her names and degraded her about her weight and the fact that no one would want her with five kids.”³⁹⁶ Jack never showed affection

³⁸⁷ Id.; Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

³⁸⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Beck Perky and Jackie Moffat 7-12-2005; Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

³⁸⁹ Willadean Rea Kleiner, DOB 5-22-1936 DOD 7-12-1999; Date of marriage to Jack Kleiner 03-08-1952; Jack Kleiner (Attachment 52, Willadean Kleiner v. Jack Kleiner Divorce Riley County Case 17,260; Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005; Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

³⁹⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

³⁹¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

³⁹² Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005; Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

³⁹³ Id.

³⁹⁴ Attachment 53, Josie Kleiner telephone call summary 5-13-2005.

³⁹⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

³⁹⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005; Attachment 45, Declaration of Dani Waller incorporating interview with Becky Perky and Jackie Moffett 8-18-2006.

to his wife or children and made his wife feel like a nobody.³⁹⁷ Willadean loved her five children and protected them as much as she could from Jack, a sharp difference her children noted in the way Judy failed to protect Judy's children from Jack.³⁹⁸

Jack's family "walked on egg shells around him" to try to avoid his wrath.³⁹⁹ Two of his daughters, Becky and Jackie, "made a point to stay away from him," isolating themselves in their rooms or leaving their house to avoid unintentionally provoking him.⁴⁰⁰ The children's feelings "were insignificant to him."⁴⁰¹ He once gave away his children's bikes to his friend's children.

Jack created "an environment of fear and anxiety every day."⁴⁰² Children in the home "didn't have to actually do something wrong to be hit;" they "just had to be in the way."⁴⁰³ No child was spared physical and emotional abuse by Jack. Jack chipped Becky's tooth with a phone receiver. He put Jackie's head through a cabinet and then beat her for crying about it. Jack tried to force the children to name their siblings for any wrongdoing, and when they refused, he "lined everyone up and beat everyone."⁴⁰⁴ Jack accused Becky and Jackie of acting inappropriately when one of his friends complimented them. Jack took the compliment "the wrong way," accused the girls of seducing his friend, and beat them. Jack hit, punched, and kneed his children, leaving them bruised and battered.⁴⁰⁵

Becky was desperate to escape her home and as a result moved, unknowingly, to an even more unsafe environment. When she was only 17, she moved in with a female neighbor who was

³⁹⁷ Id.

³⁹⁸ Id.; Id..

³⁹⁹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

⁴⁰⁰ Id.

⁴⁰¹ Id.

⁴⁰² Id.

⁴⁰³ Id.

⁴⁰⁴ Id.

⁴⁰⁵ Id.

recently divorced with three children. After Becky moved in, the roommate's ex-husband appeared at the house one day and shot and killed Becky's roommate, shot at Becky while she tried to flee with the roommate's children and then killed himself. Becky was very traumatized by this event. Becky had no choice but to move back home, but Jack "kicked her out" soon after she returned.⁴⁰⁶

Jack abandoned Willadean and their five children in April of 1972.⁴⁰⁷ Willadean filed for divorce on September 9, 1973, and the court answered her plea for an expedited divorce decree, finding the "defendant [Jack Kleiner] disregard[ed] his marriage vows and obligations" and granted Willadean a divorce from Jack on October 19, 1973.⁴⁰⁸

b. Jack and Judy Found Each Other.

Jack and Judy were "wild people" whom other Kleiner family members avoided because of their drinking.⁴⁰⁹ Alcohol formed much of the basis of their initial relationship and continued to be one of its main features. Jack and Judy "were drunk much of the time."⁴¹⁰ According to one of Jack's children, Jack and Judy met at a bar and the two began an affair. Judy had a reputation as a "sleaze" and a "whore."⁴¹¹ Judy told the story of their meeting "at a salvage yard while looking for a car."⁴¹² Judy claimed she did not realize that Jack was married and had five children. Willadean was "upset, mad" and hurt;" despite his terrible treatment of her, she never believed Jack would leave her.⁴¹³

⁴⁰⁶ Id.

⁴⁰⁷ Attachment 52, Willadean Kleiner v. Jack Kleiner Divorce Riley County Case 17,260.

⁴⁰⁸ Id.

⁴⁰⁹ Attachment 53, Josie Kleiner telephone call summary 5-12-2005.

⁴¹⁰ Attachment 54, Ron Ninemire interview with Teddy Kleiner 1-22-2005.

⁴¹¹ Attachment 2, Declaration of Lisa Rickert, incorporating interview with Penny Craig 7-12-2005; Attachment 55, Ron Ninemire interview with Penny Craig 1-19-06.

⁴¹² Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy 3-14-2005.

⁴¹³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

In April of 1972, Jack abandoned his wife Willadean and moved with Judy to a trailer in Ogden, Oklahoma.⁴¹⁴ After a year and a half, Judy and Jack moved with her children to Jack's parents' house where they could live for free in 1974.⁴¹⁵ Judy became pregnant and gave birth to Teddy Kleiner in Tulsa, Oklahoma, on June 6, 1974, the first child born to the couple. Teddy grew up hearing that he "was born addicted to alcohol" and "had to be weaned off alcohol as a baby."⁴¹⁶ Judy and Jack were married a few months later in October 1974.⁴¹⁷ When Jack's mother died, they continued to live with Jack's father until his death.⁴¹⁸ Judy complained that Jack's father, Fritz Kleiner,⁴¹⁹ "pulled his penis out in front of her" and said "dirty words."⁴²⁰

Jack Kleiner was an alcoholic who "drank morning to night."⁴²¹ Jack was violent when he drank, had numerous DUIs, and was violent toward children in his care except for Tommy.⁴²² Jack was "rude," "spoiled," and "drank a lot."⁴²³ His sister in law, Josie Kleiner,⁴²⁴ "was scared of him" and "didn't trust him."⁴²⁵ Josie "always had a 'funny feeling'" that Jack molested young girls.⁴²⁶ After her husband Gerald became ill and needed care, Jack and Judy came to Josie's home and "said they were going to take Gerry because Josie wasn't caring for him well

⁴¹⁴ Attachment 52, Willadean Kleiner v. Jack Kleiner Divorce Riley County Case #17,260; Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

⁴¹⁵ Attachment 53, Josie Kleiner telephone call summary 5-13-2005; Attachment 45, Declaration of Dani Waller incorporating interview with Becky Perky and Jackie Moffett 8-16-2006.

⁴¹⁶ Attachment 31, Declaration of Teddy Kleiner.

⁴¹⁷ Attachment 39, Kleiner v. Kleiner Legal File.

⁴¹⁸ Attachment 55, Ron Ninemire interview with Penny Craig 1-19-2006; Attachment 53, Josie Kleiner telephone call summary 5-13-2005.

⁴¹⁹ Attachment 55, Ron Ninemire interview with Penny Craig 1-19-2006.

⁴²⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-05.

⁴²¹ Attachment 56, Ron Ninemire interview with Tommy Kleiner 3-9-2005.

⁴²² Attachment 56, Ron Ninemire interview with Tommy Kleiner 3-9-2005; Attachment 31, Declaration of Teddy Kleiner 1-30-2013.

⁴²³ Attachment 53, Josie Kleiner telephone call summary 5-13-2005.

⁴²⁴ Josie Kleiner was married to Gerald Kleiner, Jack's brother, and was born in approximately 1920. Josie and Gerald were Christian people with kind hearts. When Jack and Gerald's sister Maxine died at age 25 and left five children, Josie helped care for them. Attachment 53, Josie Kleiner telephone call summary 5-13-2005.

⁴²⁵ Id.

⁴²⁶ Attachment 82, Declaration of Becky Perkey.

enough.”⁴²⁷ Josie was furious and told them so. Josie suspected that Jack and Judy wanted to help care for Gerry so they could get his retirement money.⁴²⁸ Another time, after Jack and Judy’s divorce, Jack was released from jail in Tulsa on a DUI. Jack and his son Teddy who was high school age showed up at Josie and Gerald’s door “all dirty needing a place to stay.”⁴²⁹ Josie and Gerald were going to be gone all day and did not trust Jack in their home when they weren’t present. Jack and Teddy stayed out in the truck all day in the winter until Josie and Gerald returned. Josie allowed Jack and Teddy to stay with her three days.⁴³⁰

Judy and Jack married on October 24, 1974 in Miami, Oklahoma. During the first few years of marriage, “Jack drank a lot and was abusive.”⁴³¹ Judy left him and moved close to her sister Ellen in Colorado for a month. Jack stopped drinking, and Judy returned. Jack was “nice” for about a year but then he started drinking again.⁴³² Jack beat and cursed Judy and was “so controlling” he did not allow her to take all the kids on errands for fear she would leave him.⁴³³

Lisa and her siblings suffered from Judy’s maltreatment alongside Jack’s. Judy was especially adept in humiliating her stepchildren and her stepchildren’s mother. Judy joined in Jack’s humiliation of Willadean. Jackie, one of Jack and Willadean’s children, was at a bar with Willadean, and Judy walked up to Willadean and announced, “He’s mine”⁴³⁴ referring to Jack. One of Judy’s stepdaughters, Penny, “learned at a young age, Judy is manipulative. She holds

⁴²⁷ Attachment 53, Josie Kleiner telephone call summary 5-13-2005.

⁴²⁸ Id.; Gerald Kleiner died in approximately 1994.

⁴²⁹ Id.

⁴³⁰ Id.

⁴³¹ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Judy Shaughnessy, 3-14-2005, Attachment 39, Kleiner v Kleiner Legal File.

⁴³² Id.

⁴³³ Id.

⁴³⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

things against you. She takes things from you.”⁴³⁵ Penny was Jack’s fourth child and learned to accept Judy in order to see her father.⁴³⁶

Judy “instigated situations” that got Patty and Lisa in trouble with Jack.⁴³⁷ Judy also set up Jack’s children “for punishment” and “tried to get information from them about their mother,” Willadean.⁴³⁸ Judy brought Penny and her younger brother Terry to the store and bet Terry that he could not steal sunglasses. When Terry shoplifted the sunglasses, Judy told Jack, and Terry got in trouble. Terry never returned to Judy and Jack’s house again.⁴³⁹ Judy was good at humiliating her children, too. Although the family always claimed that Lisa and Patty had the same father, Judy called Patty “nigger baby to her face.”⁴⁴⁰ She taunted Teddy by calling him “retarded.”⁴⁴¹

Jack’s employer, who observed him for years at work, described him as a “fruitcake, a drinker, temperamental, irritable, dumb, little, wiry, not handsome, but very neat and clean . . . Jack talked 100 miles an hour. He was not educated.”⁴⁴² Jack worked as a counter man for Salvage Auto for approximately ten years, starting in 1975 or 1976.⁴⁴³ He answered the phone and sold car parts, and although his children believed him when he told them he was good at it, his employer found that Jack “made a lot of mistakes. In fact, it became a joke around the place that if something went wrong everyone said, ‘where’s Jack?’”⁴⁴⁴ His son Teddy sold drugs to

⁴³⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

⁴³⁶ Id.

⁴³⁷ Id.

⁴³⁸ Id.

⁴³⁹ Id.

⁴⁴⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

⁴⁴¹ Attachment 57, Declaration of Holly Jackson incorporating interview with Teddy Kleiner 3-12-2006.

⁴⁴² Attachment 2, Declaration of Lisa Rickert incorporating interview with Sandy Beard 7-13-2005.

⁴⁴³ Id.; Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005; Attachment 2, Declaration of Lisa Rickert interview with Becky Perky and Jackie Moffett 7-12-2005.

⁴⁴⁴ Attachment 2, Declaration of Lisa Rickert interview with Sandy Beard 7-13-2005.

Hell's Angels Gang members who told Teddy they knew Jack "because of buying stolen parts from him."⁴⁴⁵

Jack's severe alcoholism took a toll on his health. He walked "with a weird gate."⁴⁴⁶ He "never looked healthy" when he worked at Salvage Auto.⁴⁴⁷ His health deteriorated so badly, his daughter Penny feared Judy was poisoning him.⁴⁴⁸ Jack was "lazy" and "did nothing to help out at home."⁴⁴⁹ Judy did not hold any jobs for the three years of 1975, 1976, and 1977.⁴⁵⁰

c. Lisa Was Singled Out for Punishment.

Lisa and her younger sister Patty were outcasts in the household and were singled out for harsh and painful treatment. Their older stepsister, Jackie, saw firsthand that Jack and Judy inflicted senseless punishment on the little girls. When Jackie was 18, unmarried, and had her baby, Mark, she had to move in with Judy, Jack, Patty, and four year old Lisa on Archer Street in Tulsa. It turned into "a couple weeks of pure hell," and Jackie moved out.⁴⁵¹ Jack always yelled at Lisa and Patty. Once at dinner time, Jack got mad at two year old Patty, "lifted her up by her pig tails" and sent her to her bedroom.⁴⁵² Judy "sat and allowed" Jack to abuse Patty, while Lisa sat at the table shaking.⁴⁵³ Jackie fled Judy and Jack's home to her sister Becky who gave her bus money to go home to their mother, Willadean.⁴⁵⁴

⁴⁴⁵ Attachment 54, Ron Ninemire interview with Teddy Kleiner 1-22-2005.

⁴⁴⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Sandy Beard 7-13-2005.

⁴⁴⁷ Id.

⁴⁴⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

⁴⁴⁹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Sandy Beard 7-13-2005.

⁴⁵⁰ Attachment 32, Judy Shaughnessy, Social Security Administration, Earned Income Statement.

⁴⁵¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

⁴⁵² Id.

⁴⁵³ Id.

⁴⁵⁴ Id.

Becky had a similar experience to Jackie's when Becky was 19, pregnant and married to Rex Perkey.⁴⁵⁵ Becky and Rex had no place to live so they moved in with Jack and Judy for about three weeks in an apartment on Peoria Street in Tulsa. Lisa and Patty slept on cots in a large walk in closet. Becky adored Lisa and Patty who received no affection from Jack or Judy. Judy was like a drill sergeant.⁴⁵⁶

In another dinner time assault on Patty, Jack and Judy refused to allow Patty to leave the table to go to the bathroom. Patty wet herself, and Jack and Judy exploded. They "dragged Patty to the bathroom, stripped her, "and beat her with a belt."⁴⁵⁷ Lisa sat helpless at the table and cried,⁴⁵⁸ "shaking like a leaf." ⁴⁵⁹ Becky and Jackie were "scared to death of Jack" and knew they could not intervene to protect the little girls.⁴⁶⁰ Becky and Jackie felt guilty that they did not "do something" about Lisa's situation when she was growing up. They were "deathly afraid" of their father.⁴⁶¹

Even after they left Jack and Judy's home, the sisters made occasional attempts at contacting them, but interaction with Judy was demeaning. Judy was "a liar and also mean."⁴⁶² Judy sabotaged whatever relationship Becky and Jackie tried to have with their father. Jack

⁴⁵⁵ Becky Kleiner married Rex Perky, and they have three children: Stephanie, Brandy and Jed, "all in their 20s" in 2005. Jackie Kleiner married and divorced from Ed Moffett, with whom she had two children, Mark and Eddie "both in their 20s" in 2005. (Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005) Penny Kleiner had three children: Tonesha, (DOB 1982); Janson (DOB 1985); and Tad (DOB 1986). Jackie Smith is the father of two of Penny's children, but she did not marry him. In October, 1995, Penny married Rob Craig. Id.

⁴⁵⁶ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Becky Perky and Jackie Moffett 7-12-2005.

⁴⁵⁷ Id.

⁴⁵⁸ Id.

⁴⁵⁹ Attachment 2, Declaration of Lisa Rickert, incorporating telephone interview of Becky Perky 5-16-2005.

⁴⁶⁰ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Becky Perky and Jackie Moffett 7-12-2005.

⁴⁶¹ Id.

⁴⁶² Id.

demanded that Becky and Jackie show respect for Judy, which was a tall order. Judy told “Becky and Jackie that their mother cheated on Jack,” but the sisters knew that was not true.⁴⁶³

Judy and Jack took one of his daughters, Penny, to bars with them, which is how Penny met her “abusive boyfriend and father of two of her children.”⁴⁶⁴ Penny developed serious problems and was placed in a group home following a battery incident during which she “beat up three other girls.”⁴⁶⁵ Penny became “a drug addict and sniff[ed] paint,” ending up for a time in the Rogers County Jail Psychiatric Unit in Claremont, Oklahoma, on charges related to possession of methamphetamine.⁴⁶⁶ Penny was “placed out of the home” for three months, but did not want to live with Judy and Jack.⁴⁶⁷ Becky allowed Penny to live with her but Jack harassed Becky so much Becky finally had to ask Penny to leave after a couple of months.⁴⁶⁸

d. Chaos Increased in the Kleiner Household.

Lisa’s home became even more chaotic and unpredictable as Jack’s five children from Willadean came in and out of the household. One of Jack’s children with Willadean, 13 year old Penny, started taking a bus to the Judy-Jack household and stayed for most of each summer between 1974 and 1978. Judy placed Penny in charge of babysitting while Judy left the home to work. Social security records, however, report that Judy earned no income in 1975, 1976, and 1977.⁴⁶⁹ Penny bathed Lisa and Patty who always had “bad little scabs all over their head[s].”⁴⁷⁰ Penny also babysat the neighbor kids to earn a few dollars that she spent on Lisa and Patty for

⁴⁶³ Id.

⁴⁶⁴ Id.

⁴⁶⁵ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Penny Craig 7-12-2005.

⁴⁶⁶ Attachment 2, Declaration of Lisa Rickert, incorporating interviews of Penny Craig and Becky Perky 7-12-2005

⁴⁶⁷ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Penny Craig 7-12-2005.

⁴⁶⁸ Attachment 2, Declaration of Lisa Rickert, incorporating interviews of Becky Perky and Jackie Moffett 7-12-2005.

⁴⁶⁹ Attachment 32, Judy Shaughnessy, Social Security Administration, Earned Income Statement.

⁴⁷⁰ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Penny Craig 7-12-2005.

clothes or sandals. The family was very poor and Penny felt badly that the little girls did not “look like the other children at school.”⁴⁷¹

Jack hurt Lisa and her sister Patty. Jack “smacked” Lisa and Patty “all the time.”⁴⁷² He slapped them for not making his rum and coke to his liking. Drinking put Jack “in a rage,” and “everyone walked around scared.” When Patty sat kicking her legs, Jack tied her feet with a phone cord.⁴⁷³ Tension and fear filled the holidays. Christmas created an occasion for the adults to drink; “then they’d fight.”⁴⁷⁴

Judy and Jack added three of their own children –Teddy, Jerri Jo Lee, and Tommy⁴⁷⁵ – to to Judy’s two children – Lisa and Patty – and to Jack’s five children, increasing the confusion, chaos, and poverty of Lisa’s home life. The impoverished household was “chaotic,” with everyone “arguing all the time.”⁴⁷⁶ Parental intoxication made a bad situation worse. Jack “drank every night,” as did Judy.⁴⁷⁷ Teddy acknowledged years later in a mental health evaluation that he was abused as a child, physically, verbally, and emotionally.⁴⁷⁸

Judy sent confusing signals to Jack’s children by alternately seducing them and punishing them. Judy made a concerted effort to convince Penny and Terry to live with her and Jack so that Jack would not have to pay child support to Willadean. She seduced Penny into drinking games when Penny was only 14 and gave her as many as four or five Tom Collins to drink. Penny became intoxicated, and Judy “pumped her for information” about Willadean.⁴⁷⁹ Judy

⁴⁷¹ Id.

⁴⁷² Attachment 2, Declaration of Lisa Rickert, incorporating interview of Teddy Kleiner 7-28-2005.

⁴⁷³ Id.

⁴⁷⁴ Id.

⁴⁷⁵ Attachment 39, Kleiner v. Kleiner Divorce File: Teddy (DOB 6-6-1974); Jerri Jo Lee (DOB 6-26-1975); and Tommy (DOB 4-6-1978)

⁴⁷⁶ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Teddy Kleiner 7-28-2005.

⁴⁷⁷ Id.

⁴⁷⁸ Attachment 58, Teddy Kleiner, Kansas DOC, Mental Health Evaluation, 1-21-2004.

⁴⁷⁹ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Penny Craig 7-12-2005.

also tried to “bribe” Penny to come and live with Judy and Jack by promising Penny “her own room, a phone, and a boyfriend.”⁴⁸⁰

Meantime, and in direct opposition to her efforts to win the children over, Judy “was mean” and “created situations” that got the children in trouble with their father.⁴⁸¹ When Judy took Penny to bars with her to drink, Penny saw Judy leave the bars with men other than Jack. Judy and Jack played drinking games with another couple.⁴⁸² Judy’s constantly shifting loyalties taught the children to “play games” and to “turn on each other,” in their efforts to find safety and gain her approval, however short lasting her approval might be.⁴⁸³ Patty learned to “kick[ed] up dirt on other family members and use[d] it to win favors with their mother.”⁴⁸⁴ Patty’s brother gave her the moniker of “undercover monster” in response to Patty’s unending effort to gain favor with their mother by reporting her siblings’ wrongdoings.⁴⁸⁵ Patty was not alone in competing for their mother’s affection by speaking poorly of other family members. When a family member had a problem with another family member, they sought out Judy who “twist[ed] the information” with the end result that everyone was “mad” at everyone.⁴⁸⁶

Tommy described his family upbringing as “chaos.”⁴⁸⁷ His father actively encouraged disrespect for the community and not to respect law enforcement. Jack threw “rocks at the cops” and “raised him to hate cops.”⁴⁸⁸ A local preacher built a house near the Kleiner home, surveyed the land and “turned out they had to take our tree house.”⁴⁸⁹ Jack “tried to pay” Ronnie, one of

⁴⁸⁰ Id.

⁴⁸¹ Id.

⁴⁸² Id.

⁴⁸³ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Teddy Kleiner 7-28-2005.

⁴⁸⁴ Id.

⁴⁸⁵ Id.

⁴⁸⁶ Id.

⁴⁸⁷ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Tommy Kleiner 3-09-2005.

⁴⁸⁸ Id.

⁴⁸⁹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner, 7-28-2005.

the children's maternal cousins "to beat them up."⁴⁹⁰ Jack was also known around town because he made moonshine.⁴⁹¹

Judy tried to undermine her stepdaughters' loyalty to their father. She told them that "Jack beat her on the legs with the heel of his penny loafers," that she broke Jack's finger during a fight with him, and that Jack "threw her in the trash can."⁴⁹² Jack broke Judy's jaw, nose, knocked her front teeth out, choked her, and tried to poison her.⁴⁹³ Jack "often got angry" with Judy.⁴⁹⁴ When Judy telephoned Jack at work, Jack became "hyped up and mad."⁴⁹⁵ When Jack beat Judy, Lisa "took all the children to another room."⁴⁹⁶

e. Lisa Was Silenced with Duct Tape over her Mouth.

Jack and Judy did not allow Lisa to make noise or speak. If she spoke when she was not supposed to speak – and she was never certain when she was allowed to speak – they taped her mouth with duct tape. Lisa was afraid she would suffocate and die if she cried when her mouth was duct taped. Lisa was not allowed to make noise, even the sound of a fork tine hitting the plate during meals. If her fork tine made a noise, she was not allowed to use utensils for six months. If she made noise washing the dishes or cleaning the house, she was beaten.

The "silence in the house was deafening," as Lisa and Patty "tried to be quiet all the time. They were not allowed to play and carry on. They walked on eggshells because they didn't

⁴⁹⁰ Id.

⁴⁹¹ Attachment 90, Declaration of Rachel Boman Johnson.

⁴⁹² Attachment 2, Declaration of Lisa Rickert, incorporating interview of Becky Perky and Jackie Moffett 7-12-2005.

⁴⁹³ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Judy Shaughnessy 7-27-2005.

⁴⁹⁴ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Sandy Beard 7-13-2005.

⁴⁹⁵ Id.

⁴⁹⁶ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Teddy Kleiner 7-28-2005.

know where the next blow was coming from.”⁴⁹⁷ Lisa was “afraid of her own shadow.”⁴⁹⁸ Judy encouraged Jack to “beat the tar” out of Lisa and Patty “for nothing at all.”⁴⁹⁹

Others observed the consequences of forced silence, and uniformly described Lisa as a “scared little girl, timid, and dainty,” like “a porcelain doll.”⁵⁰⁰ She was “afraid to speak up.”⁵⁰¹ Lisa “flinched” when she thought she was “going to get hit.”⁵⁰² She was the “sweetest little girl.”⁵⁰³ She was “not someone to tell stories or lie. She was a sweet, good child” who was “quiet” and “slow paced.”⁵⁰⁴ Lisa “was always polite, neat, clean, (and) pleasant” when Sandy Beard, Jack’s employer, saw Lisa during the decade Jack worked for Sandy.⁵⁰⁵ Lisa “lived in a book” and “as a young child” was smart, but she could not avoid punishment by Jack and Judy.⁵⁰⁶ Lisa “was in her own little world growing up.”⁵⁰⁷ She “read books all the time. She was smart and not athletic.”⁵⁰⁸ Lisa was “very quiet and timid.”⁵⁰⁹

⁴⁹⁷ Attachment 83, Declaration of Jacqueline Moffett.

⁴⁹⁸ Id.

⁴⁹⁹ Id.

⁵⁰⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

⁵⁰¹ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Penny Craig 7-12-2005.

⁵⁰² Id.

⁵⁰³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005

⁵⁰⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005

⁵⁰⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Sandy Beard 7-13-2005.

⁵⁰⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

⁵⁰⁷ Attachment 2, Declaration of Lisa Rickert, incorporating interview with Teddy Kleiner 7-28-05

⁵⁰⁸ Id.

⁵⁰⁹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett 7-12-2005.

f. Judy Used Stress Positioning and Forced Lisa and Patty to Beat Each Other.

Not only did Judy silence Lisa with use of duct tape, she also used stress positioning as punishment. As a small child, Lisa was forced to stand in the corner for hours – often from breakfast until time for lunch. Lisa was ordered to not move, not even to scratch. She could not touch the walls or the floor for support. She never knew when her mother was watching to check to make sure she obeyed; Judy seemed to always be watching or paying the other children to tattle. Judy seemed omnipotent and omnipresent. Lisa developed hyper-vigilance.

Judy also made Patty and Lisa fight each other. If the girls dared to disagree with each other, Judy told them that if they wanted to fight, they should really fight. She took them outside and handed them sticks or whatever was handy, including on one occasion two by fours, and did not let them return to the house until they had hit each other hard enough to draw blood.

g. Jack's Beatings Were Severe, Relentless, and Sexual.

Though Judy visited numerous horrors on young Lisa, the real threat was in the long wait for Jack to come home and carry out Judy's promised reckoning. Jack routinely made the girls go to the bathroom, pull down their pants, bend over the tub and wait for beatings. Jack used belts and punched them.⁵¹⁰ Jack "made the girls [Lisa and Patty] line up naked and drop their clothes before he spanked them. He didn't do that to the boys. That was known in our family."⁵¹¹ Even as a small girl, Lisa recognized that Jack's preoccupation with her naked body was dangerous and a punishment.

⁵¹⁰ Attachment 101, FBI 302 Interview with Patty Baldwin 1-28-2005

⁵¹¹ Attachment 70, Declaration of Kenneth Alexander 12-9-2012

h. Lisa Became Compliant and Began a Slow Inevitable Decline.

Lisa was a compliant child; even Judy agreed that Lisa “was a good little girl.”⁵¹² Lisa attended Sunday school, and learned to read early. Olivet Baptist Church in Tulsa awarded her a Certificate for Enrolment (sic), Attendance and Cooperation June 18-27, 1973,⁵¹³ as a student in the four and five year olds department.

Tulsa’s large Central Assembly of God Church had an outreach and ministry program to serve underprivileged and needy children in the area, and Lisa and her sister Patty participated in the program. The church awarded Lisa a Certificate of Promotion from the Beginner Department to the Primary Department of the Elementary Bible School September 1, 1974.⁵¹⁴ She faithfully attended the program whenever her parents allowed. She was promoted from the Primary Department to the Junior Department three years later on August 28, 1977.⁵¹⁵

Lisa’s intelligence and her desire to learn should have made her one of the top students in each of her grades in elementary, middle, and secondary schools, but turmoil and abuse sabotaged her academic performance. Her education was disrupted by her stepfather’s tyrannical control of home life, her mother’s abuse at the hands of her stepfather, both parents’ alcoholism, humiliation and degradation at the hands of her caretakers, her and her younger sister’s Patty’s physical abuse by parents and other caretakers, social ostracism, and repeated sexual abuse. Neurologic impairments, as seen in standardized and individualized testing, most likely accounted for a significant disparity between her verbal abilities and her mathematics ability, a strong indicator of underlying brain damage.⁵¹⁶

⁵¹² Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy 3-14-2005.

⁵¹³ Attachment 59, Vacation Bible School Certificates, June 18-27, 1973.

⁵¹⁴ Attachment 259, Central Assembly of God Church Promotion 9-1-1974

⁵¹⁵ Attachment 260 Central Assembly of God Church Promotion 8-28-1977

⁵¹⁶ Attachment 107, Lisa Montgomery, Cleveland High School Transcript; Attachment 273, neuropsychological Evaluation of Lisa Montgomery by Robert Fucetola, Ph.D., 7-26,27-2006. (“A discrepancy of this magnitude (29 points) is quite rare and seen in only 1.7% of the normal population with an IQ greater than 120.”)

Lisa did her best to overcome adversity and buried herself in reading, ever the quiet and obedient student, but her grades never matched her superior potential. She attended the first half of kindergarten at Woodrow Wilson Elementary in Manhattan, Kansas, for such a short period of time, from August 30, 1973, to December 7, 1973, that she received no grades at all.⁵¹⁷ In kindergarten, five-year-old Lisa's father was listed as John Hedberg, born in Seattle, Washington, and her mother was listed as Judy Hedberg, born in Manhattan, Kansas.⁵¹⁸ Only two children were listed in the home, suggesting that Judy had already placed Lisa's older sister, Diana, up for adoption but kept Patty, Lisa's younger sister. Judy was "divorced" and not remarried.⁵¹⁹

Jack Kleiner entered Lisa's life by December 11, 1973, when Lisa transferred from kindergarten in Manhattan to kindergarten at Pershing Elementary School in Tulsa, Oklahoma, the first of many school transfers that prevented teachers and school officials from recognizing the dire conditions in her home. Judy Kleiner is listed as Lisa's mother and a "hswf," and Jack Kleiner is listed as her stepparent whose business is Square Deal Auto Parts, even though Jack and Judy did not marry until October 24, 1974.⁵²⁰ Lisa has one younger sister (Patty) and one younger brother (Teddy), and the family lived in an impoverished area known for its high crime rate and white flight to the suburbs and surrounding towns.

John Francisco drove a bus and served as a bus minister for the Central Assembly of God's bus ministry that sought out underprivileged children. By the 1970s Lisa's neighborhood was "rife with crime, prostitution and drugs. Courts ordered forced busing to integrate Tulsa's public schools...It was the Tulsa ghetto."⁵²¹ The children that participated in the program were

⁵¹⁷ Attachment 60, Manhattan, KS Unified School District No. #383 Records.

⁵¹⁸ Id.

⁵¹⁹ Id.

⁵²⁰ Attachment 61, Tulsa Public Schools Cumulative Records; Attachment 39, Kleiner v. Kleiner Divorce Transcript.

⁵²¹ Attachment 62, Declaration of John Francisco. John Francisco was a pastor in Tulsa's bus program, attended by Lisa and her sister Patty.

from “rough and poor backgrounds”⁵²² Years later John still remembered Lisa and Patty riding his bus. Their neighborhood was a “mix of black and white people. The house where I first found them was isolated.”⁵²³ John felt that was Jack a “hard and harsh man” and “wondered why he was so hard on his wife and children.”⁵²⁴ Lisa and Patty stood out to John because “there was a darkness in their home” and Jack was “harsh, strict and overbearing.”⁵²⁵ Patty and Lisa seemed “fearful . . . They didn’t want to do anything wrong or step out of line.”⁵²⁶

Jack’s immediate and negative impact on Lisa may account for the high number of days she missed in school. Lisa was absent 16 days out of 210 days for the final part of her kindergarten year.⁵²⁷ Lisa “must have had an awful life” living under Jack’s rule, and at least one adult Kleiner relative felt “sorry for that little girl.”⁵²⁸

Six-year-old Lisa transferred from Pershing to Chouteau Elementary School in Tulsa, her third school in less than two years, to attend first grade in the fall of the 1974-1975 school year. The family still lived at 507 North Santa Fe in Tulsa’s central city slum. Lisa’s attendance was better than in kindergarten, but she was still absent 14 out of 350 days.⁵²⁹ Lisa received all As in her subjects in the first grade,⁵³⁰ an indication of the promise she held had resources, support, and safety been afforded her. Her teacher, Mrs. Betty Bell Clapp, encouraged her with Certificates of Merit in Art and Reading.⁵³¹

⁵²² Id.

⁵²³ Id.

⁵²⁴ Id.

⁵²⁵ Id.

⁵²⁶ Id.

⁵²⁷ Id.; Attachment 61, see also Tulsa Public Schools Cumulative Records.

⁵²⁸ Attachment 53, Josie Kleiner telephone call summary 5-13-2005.

⁵²⁹ Attachment 61, Lisa Montgomery, Tulsa Public Schools Cumulative Records.

⁵³⁰ Id.

⁵³¹ Attachment 63, Lisa Montgomery, Certificate of Merit in Art May 1975; Attachment 64, Lisa Montgomery, Certificate of Merit Reading May 1975.

Reward and encouragement at school gave way to cruel punishment and humiliation at home. Jack was “the main disciplinarian” and “very strict.”⁵³² Jack “screamed and yelled” at the children “a lot.”⁵³³ Jack and Judy “hit and spanked” Lisa without provocation.⁵³⁴ It “didn’t take much” for the children to “get in trouble.”⁵³⁵ Jack’s fourth child, Penny, “even spanked” Lisa and her siblings until Penny “saw how fearful they were.”⁵³⁶ Judy was physically abusive to the children “when they were young,” but not “like Jack.”⁵³⁷ Judy never protected Lisa and Patty from Jack’s physical abuse. They were beaten for little or no reason: making his drink wrong or not eating food on their plate.⁵³⁸

Lisa attended two schools in the underserved inner city of Tulsa in the second grade during the 1975-1976 school year. She began second grade at Chouteau Elementary on September 2, 1975, and transferred to Jackson Elementary, also in Tulsa, on February 13, 1976.⁵³⁹ Despite the hectic transfer schedule, Lisa continued to receive good marks of S in all subjects, but her absenteeism increased to 18 days out of 350.⁵⁴⁰

In the third grade of the 1976-1977 school year at Jackson Elementary in Tulsa, eight-year-old Lisa performed far below her potential in standardized testing as she attempted to do her best. Although she received S in all her courses, her performance testing on the SRA Assessment Survey in September 1976 came in at an alarming 40th percentile in Language Arts and a middling 81st percentile in Reading, far below her expected level.⁵⁴¹ Sub-average scores

⁵³² Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

⁵³³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain 7-13-2005.

⁵³⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005

⁵³⁵ Id.

⁵³⁶ Id.

⁵³⁷ Attachment 54, Ron Ninemire interview with Teddy Kleiner, 1.22.05.

⁵³⁸ Id.

⁵³⁹ Attachment 61, Lisa Montgomery, Tulsa Public Schools Cumulative Record.

⁵⁴⁰ Id.

⁵⁴¹ Id.

compared to significantly higher scores on subsequent tests suggest an outside force, such as trauma or unattended to illness, derailed her performance. Lisa regained her academic acuity in the Spring of 1977 and performed in the 97th percentile in Language Arts and 97th percentile in reading.⁵⁴² Her Stanine scores⁵⁴³ also show that her performance in the fall of 1976 was dramatically affected by some kind of stressor. Her Fall 1976 Stanine score in Language Arts was 5, which is the mean but Lisa was capable and performed much higher than the mean previously. Her Stanine score increased to 9 – the very highest score – in the Spring of 1977.⁵⁴⁴ One possible cause of her poor performance in the Fall could be the loss of her sole friend “who died in a fire” in elementary school.⁵⁴⁵ Lisa missed only eight out of 350 school days, which was an improvement over the previous year, but she was not able to sustain good school attendance in the fourth grade.⁵⁴⁶

As a result of a scoliosis screening at Jackson Elementary, nine-year-old Lisa was referred to Children’s Medical Center of Tulsa. On May 25, 1977, Dr. Jerry Sisler determined, upon physical examination, that Lisa suffered from a slight “rotation deformity of the spine.” A standing X-Ray showed a “13 degree curve” and a more “prominent left rib cage.”⁵⁴⁷ Dr. Sisler noted that Lisa was “a relatively small child with wide set eyes.”⁵⁴⁸ Her nails were “closely bitten.”⁵⁴⁹ During a follow up examination on November 23, 1977, Dr. Sisler noted the same “13 degree curve” and that the “left shoulder does appear to be slightly higher. Forward bending

⁵⁴² Id.

⁵⁴³ Stanine scores are a method of scaling test scores on a nine-point standard scale with a mean five and a standard deviation of two. The mean lies at the center of the fifth point. Id.

⁵⁴⁴ Id.

⁵⁴⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy 03-14-2005.

⁵⁴⁶ Attachment 61, Lisa Montgomery, Tulsa Public Schools Cumulative Record.

⁵⁴⁷ Attachment 65, Lisa Montgomery, Children’s Medical Center Records.

⁵⁴⁸ Id.

⁵⁴⁹ Id.

shows some prominence to the left rib cage posteriorly, as before.”⁵⁵⁰ She was 51 inches tall and weighed just 56 pounds.⁵⁵¹ Lisa was scheduled to return for monitoring of her scoliosis on June 2, 1978, November 22, 1978, November 29, 1978, March 25, 1979, March 29, 1979 and November 25, 1979, but her mother did not take her to the appointments evidenced by “Did Not Attend” notations in Lisa’s file. The Children’s Medical Center lost contact with young Lisa.⁵⁵²

Lisa’s 1977-1978 school year in the fourth grade saw further, although slight, decline in her grades and standardized testing. Her family moved to 1924 West Archer, still in the slums.⁵⁵³ She transferred school for the fifth time and returned to Pershing Elementary School. Her attendance suffered, and the nine-year-old missed 24 out of 350 school days.⁵⁵⁴ She received A’s (Math, Reading, Language, Spelling), B’s (Writing, Science), and S’s (Art, Music) in her courses. Lisa’s scores on standardized testing showed a great deal of discrepancy in her verbal and language abilities. She scored in the 98th percentile in comprehension but only in the 88th percentile in vocabulary. Her math scores were up from the third grade but significantly lower than her overall verbal scores. She performed in the 81st percentile in one portion of her math and in the 99th percentile in one portion of verbal testing.⁵⁵⁵

Lisa still outperformed most students and brought home a second place certificate for being a Grade Champion Speller.⁵⁵⁶ As always, Lisa was a well-mannered child and her teacher, Mrs. Mary Sanders, encouraged Lisa by awarding her the Good Citizenship Award, May 12, 1978.⁵⁵⁷

⁵⁵⁰ Id.

⁵⁵¹ Id.

⁵⁵² Id.

⁵⁵³ Attachment 61, Lisa Montgomery, Tulsa Public Schools Cumulative Records.

⁵⁵⁴ Id.

⁵⁵⁵ Id.

⁵⁵⁶ Attachment 66, Lisa Montgomery, Tulsa Tribune Spelling Award, 2-10-1978.

⁵⁵⁷ Attachment 67, Pershing Elementary, Lisa Montgomery Good Citizenship Award.

Judy continued to neglect her children. Lisa and Patty “did not have basic hygiene” and Penny “bathed them” and bought Lisa and Patty “clothes and sandals” because she “wanted them to all be treated the same and look like the other children at school.”⁵⁵⁸

Lisa’s fifth grade teacher for the 1978-1979 school year, Mrs. Eunice Copeland, reported that ten-year-old Lisa was “capable of earning higher grades if she would complete more extra credit assignments.”⁵⁵⁹ Mrs. Copeland remembered that Lisa had a “sweet countenance about her.”⁵⁶⁰ She was “a good student who tried hard.”⁵⁶¹ Mrs. Copeland believed that “there must have been something going on at home that kept her from doing the extra credit.”⁵⁶² Lisa received a string of B’s (Math, Reading, Language, Spelling, Writing, Social Studies, Science), S’s (Art, Speech), and a lone A in Band. She missed 19 out of 327 school days. She completed the fifth grade at Pershing.⁵⁶³ Judy worked and earned almost \$5,000 in 1978 and 1979.⁵⁶⁴

Lisa transferred to Stockard Coffee Elementary School in Modesto, California on October 22, 1979, when her family moved on a whim. Judy worked for a magazine and book service at the time. Jack and Judy wanted to move to California and agreed to take along Penny (Jack’s fourth daughter from his first marriage) and Penny’s boyfriend, Jackie Smith, who was the father of two of Penny’s children.⁵⁶⁵ At the last minute Judy and Jack changed their minds and said that Penny and Jackie Smith could not go along.⁵⁶⁶ Lisa attended only one semester of

⁵⁵⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

⁵⁵⁹ Attachment 68, Lisa Montgomery, Report To Parent, Tulsa Public Schools.

⁵⁶⁰ Attachment 69, Declaration of Eunice Copeland 11-17-2012. Eunice Copeland was Lisa’s fifth grade teacher.

⁵⁶¹ Id.

⁵⁶² Id.

⁵⁶³ Attachment 61, Lisa Montgomery, Tulsa Public Schools Cumulative Records.

⁵⁶⁴ Attachment 32, Judy Shaughnessy SSA Itemized Statement of Earnings.

⁵⁶⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Penny Craig 7-12-2005.

⁵⁶⁶ Id., Penny spent the next three years homeless and addicted to inhalants.

school at Stockard Coffee Elementary School, before Jack and Judy moved the family to San Antonio. Judy did not work at all in 1980, 1981, 1982, and 1983.⁵⁶⁷

The family was impoverished, could not live independently, and left Modesto, California, to move in with relatives in San Antonio, Texas. Lisa wore “hand me down clothes.”⁵⁶⁸ In San Antonio, Lisa continued her sixth grade studies at her seventh school, Pease Middle School. She enrolled at Pease January 7, 1980.⁵⁶⁹ The eleven-year-old survived her first reported sexual assault by a family member in San Antonio when Kenneth Dale Alexander (Kenny),⁵⁷⁰ Lisa’s severely mentally ill cousin, sexually assaulted her. Kenny dismissed the assault as “playing doctor.”⁵⁷¹ Kenny and Lisa were in the same 6th grade class and Kenny admits the he “first tried

⁵⁶⁷ Attachment 32, Judy Shaughnessy, Social Security Administration, Earned Income Statement.

⁵⁶⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kenneth Alexander 7-26-2005. Kenneth is Lisa’s maternal cousin.

⁵⁶⁹ Attachment 261, Pease Middle School Records; Family members report that Lisa also attended Rainbow Hills School and Adam’s Hill in San Antonio.

⁵⁷⁰ Kenneth Dale Alexander (DOB 10-26-1966). Kenny has a long, chronic history of multiple psychiatric hospitalizations, treatment with anti-psychotic medications, and substance abuse. He was admitted six times to Kerrville State Hospital in Texas; the first admission was April 21-17, 1989. (Attachment 71, Kenneth Alexander, San Antonio State Hospital 3-25-2008) On 11-9-1994, he was admitted to Florida State Hospital after being found incompetent to stand trial, was diagnosed with Bipolar Mood Disorder with psychotic features, and hospitalized until 3-12-1995. He was delusional and insisted he worked in the “Christian Intelligence” community. (Attachment 72, Kenneth Alexander, Florida State Hospital) In 2008, he was admitted to San Antonio State Hospital where he was treated for one month and diagnosed with schizophrenia, paranoid type. He had delusions that the CIA had placed implants in his mouth as part of a Democratic and Republican military experiment. His family reported he disappeared for days at a time, was unable to maintain employment for more than two months, had mood shifts, and was extremely irritable. (Attachment 71, Kenneth Alexander, San Antonio State Hospital, 2008) A 5-29-2009 evaluation to determine his eligibility for Social Security Disability Insurance (Attachment 73, SSDI Records) diagnosed him with bipolar disorder, not otherwise specified with psychotic features. He functioned at the borderline to low average range of intellectual ability. His memory functioning was in the extremely low range in auditory (1 percentile) and immediate memory (1 percentile). His highest score was in visual working memory at 34 percentile, followed by visual memory at 23 percentile and delayed memory at 12 percentile. He reported depression, irritability, and mood swings. (Attachment 74, Kenneth Alexander, Snowy Range Consulting, LLC, Mental Status Exam, 5-29-2009) In 2010, in Wyoming, he was diagnosed with psychosis not otherwise specified after being arrested and hospitalized for wielding a rifle in a store and claiming he had to protect himself from people in the CIA who were following him. He announced he was the president’s dog and in a relationship with Jesus Christ. (Attachment 75, Kenneth Alexander, Wyoming Behavioral Institute, 5-13-2010) During his involuntary hospitalization, he was prescribed Trileptal (600 mg) used to treat partial seizures, lithium carbonate (900 mg), for mood stabilization and Haldol (10 Mg) an antipsychotic drug. (Attachment 75, Kenneth Alexander, Wyoming State Hospital, Psychotropic Drug History, 6-22-2010) Kenny reported he had been shot in the head in 1994 and “in and out of state hospitals all my life” (Attachment 77, Kenneth Alexander, Wyoming State Hospital, Psychiatric Admission Note, 7-12-2010)

⁵⁷¹ Attachment 72. Kenneth Dale Alexander Florida State Hospital; Attachment 2, Declaration of Lisa Rickert incorporating interview with Kenneth Alexander 7-26-2005.

to penetrate Lisa when we were young.”⁵⁷² Kenny was subsequently diagnosed with paranoid schizophrenia and bipolar mood disorder, and receives SSI due to his disability.⁵⁷³ Kenny’s father reported that Kenneth’s daughter, Ashley, also receives SSI and has recently “been involuntarily admitted to the Kansas State Mental Hospital.”⁵⁷⁴

i. Lisa Started Junior High with her Eighth School Transfer.

No one wanted to “hang out” with Lisa when they were young.⁵⁷⁵ Jack brought the family back to Tulsa, and in the fall of the 1980-1981 school year, Lisa began the seventh grade at Cleveland Middle School, her eighth school transfer. Her family lived at 1626 Admiral Place. Teachers noted Lisa was “working below grade level” in English and Math.⁵⁷⁶ Mrs. Camille McKenzie, the former Dean of Students, confirmed that Lisa was tested when she returned from Modesto, California and San Antonio, Texas to the Tulsa School District to evaluate whether she had any special needs. Lisa’s tests showed that she was below average in both reading and math, therefore, she was placed in “special needs” classes.⁵⁷⁷ Mrs. McKenzie believes Lisa, who had performed well academically in the past, was placed in special needs classes because she either had not attended school for a long period of time before return to Tulsa or she was experiencing severe emotional distress preventing her from concentrating on her work.⁵⁷⁸ Lisa received C’s (Math and Physical Education), and A’s and B’s in her other subjects. It continued to be difficult for Lisa to attend school as much as she wanted due to lack of support, and she missed many

⁵⁷² Attachment 70, Declaration of Kenneth Dale Alexander.

⁵⁷³ Id.

⁵⁷⁴ Attachment 81, Declaration of Marvin Alexander.

⁵⁷⁵ Attachment 57, Declaration of Holly Jackson incorporating interview with Teddy Kleiner 3-12-2006.

⁵⁷⁶ Attachment 61, Lisa Montgomery, Tulsa Public Schools Cumulative Records.

⁵⁷⁷ Attachment 57, Declaration of Holly Jackson incorporating interview with Camille McKenzie re: special needs classes in Tulsa Public Schools 1-25-2006; (Attachment 60, 61, Lisa Montgomery, School Records). Camille McKenzie is an administrator in Tulsa’s Public School System.

⁵⁷⁸ Attachment 57, Declaration of Holly Jackson incorporating interview with Camille McKenzie re: special needs classes in Tulsa Public Schools 1-25-2006.

school days.⁵⁷⁹ Her standardized testing documented her decline from performing in the 98th percentile in comprehension to the 88th percentile, and from the 81st percentile in math to the 79th percentile.⁵⁸⁰ Her Stanine scale of 9 – the highest possible score – dropped to 7 and 8, a testament to how hard she struggled to achieve in the face of her unsafe and threatening home environment.⁵⁸¹

Lisa began the eighth grade at Sperry High School in the fall of 1981; it was her ninth but not final school transfer. She “was smart,” but “neither she nor Patty was accepted.”⁵⁸² She kept her grades of A’s (Band, Social Studies, Math, and English) and B’s (Home Economics, Science)⁵⁸³ despite the nightmare she endured at home as Jack began a relentless assault on every aspect of 13- year-old Lisa’s integrity. He sexually molested her by touching her breasts and genitalia and then raped, threatened, beat, and controlled her. Lisa “seemed to be afraid of retribution if she didn’t do what Jack asked,” according to a fellow who worked with Jack at the salvage yard.⁵⁸⁴ Jack moved the family to an isolated rural area six miles outside of Sperry, Oklahoma, with a rural box office address of Box 256, where it was much easier to escape observation or accountability for what went on in his home. Their house was “really run down” and out in a barren pasture “like in the middle of the desert.”⁵⁸⁵

Mary Osborn Hodges, one of Lisa’s friends in junior and high school, was sexually and physically abused and she and Lisa found friendship in their shared circumstances. “Lisa and I felt shame about our lives . . . We knew that we had been abused in every way a person can be

⁵⁷⁹ Attachment 61, Lisa Montgomery, Tulsa Public Schools Cumulative Records.

⁵⁸⁰ Id.

⁵⁸¹ Id.

⁵⁸² Attachment 91, Declaration of Brenda Cox.

⁵⁸³ Attachment 78, Lisa Montgomery, Sperry Public Schools Transcript.

⁵⁸⁴ Attachment 84, Declaration of Jeff Batson.

⁵⁸⁵ Attachment 57, Declaration of Holly Jackson incorporating interview with Janet McNickle 1-21-2006. Janet McNickle and Lisa were classmates.

abused including emotionally, physically, sexually and verbally. We were told that we were the cause of whatever the abuse was.”⁵⁸⁶ Lisa and Mary were both “depressed” and “withdrew.”⁵⁸⁷ Jack and Judy continued to isolate Lisa and she was “never allowed” to go to Mary’s house.⁵⁸⁸ Lisa described to a friend years later how Jack came to her room at night, had sex with her and told her “it was okay.”⁵⁸⁹ Lisa was not “sure if Patty and Jerri were being abused too.”⁵⁹⁰ Lisa tried to tell her mother, but her mother did not listen to the teenager.⁵⁹¹ Sperry Public School awarded her an “S” (satisfactory) certificate in Home Economics and Social Studies May 10, 1982.⁵⁹²

Lisa started eighth grade classes late as a transfer student. Her new band teacher introduced her to the class as a violinist and “made her play in front of the class.”⁵⁹³ Another youngster, Carl McClain, who lived not too far from Lisa’s trailer saw her for the first time in band class and was smitten, although at first he thought she was a “snob” because she played the violin.⁵⁹⁴

Lisa joined Carl McClain and his friends who were “outcasts,” after another girl Lori Kime (Blalock) introduced them.⁵⁹⁵ Lisa, Lori, and Carl McClain began a lifelong relationship and were fast friends. Neither Carl McClain nor Lisa was popular, and they became high school sweethearts from the eighth grade to the eleventh.⁵⁹⁶ Lisa was not allowed to have friends visit

⁵⁸⁶ Attachment 88, Declaration of Mary Osborn Hodges 1-30-2013.

⁵⁸⁷ Id.

⁵⁸⁸ Id.

⁵⁸⁹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain 7-13-2005. Carl McClain and Lisa were classmates and boyfriend/girlfriend in school.

⁵⁹⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery 7-28-2005.

⁵⁹¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain 7-13-2005.

⁵⁹² Attachment 78, Lisa Montgomery, Sperry Public Schools “S” (satisfactory) Award.

⁵⁹³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain 7-13-2005.

⁵⁹⁴ Id.

⁵⁹⁵ Id.

⁵⁹⁶ Id.

her at home, so Carl McClain did not go to her home often. On his few trips to Lisa's home, he "had a strict curfew."⁵⁹⁷

j. Jack Repeatedly Raped Lisa in the Special Room.

Jack began to sexually molest Lisa; he molested her one to two times a week. He threatened to hurt her if she told anyone.⁵⁹⁸ After the pattern of molestation had been established, Jack moved the family to a trailer in an isolated area near Sperry Oklahoma. To further isolate Lisa from her sisters and the rest of the family, Jack built a small room onto the side of the trailer over the water pump. While the construction of this special room ostensibly acknowledged Lisa's maturation, the room actually provided Jack unimpeded access to Lisa without the possibility of detection as it was not accessible from the inside of the trailer. In this room, Jack told Lisa that he was teaching her how to be a good wife. And then he raped and sodomized her until she bled.

Lisa had mixed feelings about the room her stepfather built for her. She lived in sickening anticipation of what happened to her in the room, but the room also had a life sustaining secret. Lisa's mother stored homemade liquor and wine in the special room, and Lisa drank jar after jar of the brew that made her disappear into dizzy, indifferent, and numb intoxication when her stepfather raped her with impunity⁵⁹⁹ day after day, week after week, month after month, year after year. Homemade wine cut the pain and fear of being hit on the head and back with the broom handle, being choked nearly to death, and being smothered by a pillow over her face as he violated her.

⁵⁹⁷ Id.

⁵⁹⁸ Attachment 39, Kleiner v. Kleiner Divorce Transcript.

⁵⁹⁹ Attachment 272, Oklahoma Dept of Human Services report, 11-5-1984 and 8-13-1987.

Wine and moonshine pushed her fear to a distant place at first, but they were not strong enough to keep her fear at bay. Somewhere in the dark of the special room, as her stepfather threatened to rape her younger sister if Lisa did not submit to anal rape, Lisa's mind fractured and retreated to a safer place than the reality of her daily life. Most of the time, her mind stayed in the safe realm of unreality, an altered consciousness that allowed her to walk, talk and act as if she were mentally present when she was not. She did not consciously or volitionally decide to go to the safer place; it happened without her insight, understanding, or knowledge. This loss of contact with reality made her wonder for the rest of her life what was real and what was not real.

Jack also exposed Lisa to sexual assault by his friends; Judy did nothing to protect Lisa. Jack hired Jeff Batson⁶⁰⁰ "to help with the animals," but Judy believed Jack encouraged Jeff to have sex with Lisa so that "if Lisa got pregnant Jack could blame it on Jeff."⁶⁰¹ Jeff moved into the overcrowded house with the family. Teddy suggested everyone who worked with Jack at the salvage yard "was a child molester."⁶⁰² Jeff Batson molested Teddy and had sex with Lisa.⁶⁰³

Lisa continued to do exceptionally well at school against the backdrop of rape, physical abuse and coercive control at home. "Lisa was helpful as a teen, did her chores and read all the time."⁶⁰⁴ Judy, certain that no one would contradict her, reported that she and Lisa "had a good relationship."⁶⁰⁵

Lisa entered the ninth grade in the school year 1982-1983 at Sperry. She struggled with Algebra and received a C-, an unusually low mark for her, and even received a C in English I.

⁶⁰⁰ Jeff Batson was subsequently convicted of child sexual abuse. Attachment 93, *State of Texas v. Jeffrey Wayne Batson*, Case No. 0555631D, Criminal District Court, Tarrant County, Texas.

⁶⁰¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy 7-26-2005.

⁶⁰² Attachment 2, Declaration of Lisa Rickert incorporating interview of Teddy Kleiner, 7-28-05; Attachment 31, Declaration of Teddy Kleiner 2-15-2013.

⁶⁰³ Id.

⁶⁰⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy 3-14-2005.

⁶⁰⁵ Id.

She maintained A's and B's in her other subjects.⁶⁰⁶ A former classmate described her as "quiet, sweet, polite and real soft spoken."⁶⁰⁷ On April 11, 1983, her maternal grandfather, Nils Rignell, died from lung cancer; Nils had been a farmer all his life.⁶⁰⁸

One of Lisa's classmates, Susan Barrow, lived near Lisa and drove Lisa and Patty to school in Sperry "nearly every day for a year" and realized that "Lisa and Patty appeared unhappy each day when they had to go home after school."⁶⁰⁹ Susan was "never once allowed inside [Lisa's home] nor could she spend the night."⁶¹⁰ Lisa "wore old hand-me down clothes that had holes in them and were too big. She wasn't always clean" and "couldn't always wash her clothes. Her hair was long and straight and didn't look clean. It was unruly. . . . It was easy to tell Lisa was poor even in our crowd who were all poor."⁶¹¹ Although Lisa performed above average in school, her traumatic background interjected itself with episodes that sounded like dissociation. Susan remembered that the teacher had "to say something to get her attention like, 'Wake up!'"⁶¹² Susan reported that Lisa spaced out at times when they were together.

Lisa held her own through the first semester of the tenth grade in the 1983-1984 school year, and received A's with 2 C's. The second semester brought special challenges when her mother discovered Jack raping 15-year-old Lisa February 24, 1984, and blamed the teenager for the rape. Nonetheless, Lisa managed to receive two A's (Social Psychology and Biology) and four B's (Accounting, English II, Geometry, and American History). School staff selected her to

⁶⁰⁶ Attachment 78, Lisa Montgomery, Sperry Public School Transcript.

⁶⁰⁷ Attachment 94, Declaration of Richard Akin 12-14-2012. Richard Akin was a former classmate of Lisa's.

⁶⁰⁸ Attachment 95, Nils Rignell, Death Certificate.

⁶⁰⁹ Attachment 96, Ron Ninemire interview with Susan Barrow-Swartz 1-20-2006.

⁶¹⁰ Id.

⁶¹¹ Attachment 97, Declaration of Susan Barrow-Swartz, 3-1-2013.

⁶¹² Id.

participate in a 1984 summer resident program, Project Upward Bound,⁶¹³ at Rogers State College, in Claremore Oklahoma.⁶¹⁴

Even this certificate bore witness to the control Jack had over her life as it was issued to “Lisa Kleiner.” Nita Milburn Montgomery was the Upward Bound Counselor and even though she served as the counselor for ten to twelve schools, years later the community of Sperry and Lisa were still fresh in her memory:

A disproportionate number of families in Sperry were stressed by physical and sexual abuse, domestic violence, blended families with ongoing disputes, untreated mental illness, and substance abuse. The community was extremely poor, and Lisa Montgomery’s family was poorer than most. Most of the students were from the rural areas surrounding Sperry, where the mean family income was barely half that of the nation. Even in Oklahoma’s rural communities, Sperry was especially impoverished, and children came to the program with lice and their gear full of cockroaches.⁶¹⁵

Nita suspected that something was wrong in Lisa’s home:

Lisa lived out in the country north of Sperry in an isolated area. I picked her up a couple of times and gave her rides to functions. Lisa was shy, passive, not assertive at all, tentative and kind...I remember suspecting that Lisa might have been abused, but I did not have the kind of experience then that I have today.⁶¹⁶

Lisa’s friend, Janet McNickle, noticed that Lisa “didn’t make eye contact” and “looked down” even when talking to her friends.⁶¹⁷ Janet believed Lisa was “depressed. She was withdrawn and sad.”⁶¹⁸

⁶¹³ “Project Upward Bound was a federally subsidized program. It was part of the federal government Higher Education Act that emerged from the federal Economic Opportunity Act of 1964. Upward Bound was funded by a federal grant that targeted areas that were the most deprived and underprivileged in the country. Sperry, Oklahoma, was one of those areas. Sperry was a very small, very low-income, community at the base of the hills outside of Tulsa, Oklahoma.” (Attachment 98, Declaration of Nita Milburn Montgomery 3-12-2013.) Nita and Lisa were classmates.

⁶¹⁴ Attachment 99, Lisa Montgomery Certificate of Merit, Project Upward Bound, 7-12-1984.

⁶¹⁵ Attachment 98, Declaration of Nita Milburn Montgomery, 3-12-2013.

⁶¹⁶ Id.

⁶¹⁷ Attachment 89, Declaration of Janet McNickle Eastman, 1.25.2013.

⁶¹⁸ Id.

The turmoil and threat at home exploded February 24, 1984, when Judy was forced to acknowledge that Jack was raping Lisa. Judy reported she walked in on Jack as he raped Lisa, and fetched a gun and put it to Jack's head.⁶¹⁹ Lisa's description of that night differs significantly from Judy's. Judy was overwrought and furious. Judy held the gun to Lisa's head, interrogated Lisa repeatedly, and demanded to know details of the abuse. The chaos went on all night; Judy periodically left the room, stormed through the house, and returned to hold a gun to Lisa's head. It was the most terrifying night of Lisa's life.

Judy blamed Lisa for her stepfather's repeated rapes of the child.⁶²⁰ Lewis Priest, Jack's friend, saw Judy and Jack shortly after Jack's sexual abuse of Lisa was known. Jack and Judy were trying to find Jack an apartment, and Lewis asked Jack if he had sex with his daughter, Lisa. "Jack did not deny it. Jack said that he had come out of the bathroom and saw her [Lisa] lying on the covers and had to fool around with her."⁶²¹

A local physician learned firsthand of Lisa's ongoing sexual abuse by her stepfather. The physician, Dr. William Barnes, remembered Lisa's rape because it "made him mad."⁶²² Judy showed up at Dr. Barnes's office requesting an examination of Lisa "because she had been sexually abused by her stepfather."⁶²³ Dr. Barnes conducted a gynecological examination of Lisa, with Judy in the room, and determined that Lisa's "hymen was ruptured."⁶²⁴ He ordered a pregnancy test, which required taking blood. The tests were negative, and Dr. Barnes sent the results to Lisa's mother. According to Dr. Barnes, Lisa "showed little emotion and had a flat

⁶¹⁹ Attachment 100, FBI 302 Interview with Judy Shaughnessy 1-11-2005

⁶²⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery 7-28-2005.

⁶²¹ Attachment 92, Ron Ninemire interview with Lewis Priest 1-20-2006. Lewis Priest was a friend of Lisa's stepfather, Jack Kleiner.

⁶²² Attachment 2, Declaration of Lisa Rickert incorporating interview with Dr. William Barnes 7-14-2005. Dr. Barnes examined Lisa after Judy found Jack raping her.

⁶²³ Id.

⁶²⁴ Id.

affect,” observations that are characteristic of traumatized children.⁶²⁵ Lisa’s mother, Judy, remembered the episode differently and stated that Lisa “lost it” when Dr. Barnes told her that if she was pregnant with her stepfather’s baby he would perform an abortion.⁶²⁶ Dr. Barnes never talked to Lisa alone about what happened to her. Although Dr. Barnes’ normal practice was to call the police when a child was sexually abused, he did not because Judy said she was going to call the police.⁶²⁷

Social services investigated for abuse at the Kleiner house only once, and telephoned beforehand to announce their upcoming visit. Jack took full advantage of the notice and threatened to beat Lisa and Patty if they told the truth.⁶²⁸ Patty had bruise marks around her neck from Jack choking her,⁶²⁹ but when the caseworker asked about the marks, Patty told her that the marks were from rope burn. Jack also forced Lisa and Patty to beat each other. He sent them to the garage to fight and told them not to come back until “one of them had drawn blood.”⁶³⁰ Jack “broke a broom,” hitting Lisa with it.⁶³¹ Patty once saw Jack on top of Lisa; Lisa was naked from the waist up and covered with bedding from the waist down. Patty believed that Lisa’s sexual activity in school coincided with Jack’s rapes of her.⁶³²

Lisa grew “very distant and withdrawn” the summer before the eleventh grade and did not call or talk to her boyfriend, Carl McClain. She dropped out of band.⁶³³ Lisa and Carl

⁶²⁵ Id.

⁶²⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy 7-26-2005.

⁶²⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Dr. William Barnes 7-14-2005.

⁶²⁸ Attachment 101, FBI 302 Interview with Patty Baldwin 1-28-2005.

⁶²⁹ Id.

⁶³⁰ Id.

⁶³¹ Attachment 102, Lisa Montgomery, 1984 Counseling Records Nancy Walentiny.

⁶³² Attachment 101, FBI 302 Interview with Patty Baldwin 1-28-2005.

⁶³³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain 7-13-2005; Attachment 89, Declaration of Janet McNickle Eastman, 1-25-2013.

McClain “drifted apart” the summer before the eleventh grade. By the end of the eleventh grade, Carl McClain wrote Lisa a letter to break up.⁶³⁴

Lisa took on “a lot of responsibility” for taking care of Patty, Teddy, Jerri Jo and Tommy.⁶³⁵ Her mother thought Lisa was bitter and bottled up her temper.⁶³⁶ When Lisa was a teenager, around fifteen or sixteen years old, she became “fearful of taking showers” and was “dirty.”⁶³⁷

In the eleventh grade, Lisa’s academic struggle collapsed under the weight of her stepfather’s cruelty and her mother’s indifference and hostility. The 16-year-old started her 1984-1985 school in Honors classes for Algebra, U.S. Government, Chemistry, and English III, but it was impossible for her to maintain superior performance. Her grades the first semester plummeted to a D in English, C’s, B’s and only one A in World History and continued their plummet in the second semester. Lisa was suspended from Sperry High School for three days when “she was caught with a book about incest,” according to her mother’s report, but school records do not show the suspension.⁶³⁸

In October 1984, Lisa was 16 and met her soon to be stepbrother and husband, 24-year-old Carl Boman.⁶³⁹ Carl was “just out of the service, laid off from work, depressed, and recently divorced.”⁶⁴⁰ Carl visited his father, Richard, who at that time dated Lisa’s mother, Judy. Carl stayed with his father, and Judy and the children lived one block away. Carl took care of Judy’s

⁶³⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain 7-13-2005.

⁶³⁵ Attachment 102, Lisa Montgomery, 1984 Counseling Records Nancy Walentiny

⁶³⁶ Id.

⁶³⁷ Attachment 57, Declaration of Holly Jackson incorporating interview with Judy Shaughnessy 12-12-2005.

⁶³⁸ Attachment 103, Ron Ninemire interview with Judy Shaughnessy 6-9-2006.

⁶³⁹ Attachment 104, Carl Boman, DOB 8-31-1961; Boman v. Boman Divorce File, 1993.

⁶⁴⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman 4-14-2005.

children occasionally and saw Lisa.⁶⁴¹ Carl also drove Lisa to her therapy sessions, and she confided in him that Jack had forced himself on her.

According to Carl, Jack “threatened to have sex with Lisa’s younger sister Patty if she didn’t continue to have sex with him.”⁶⁴² Carl knew that Judy “blamed Lisa” for the sexual abuse and thought Lisa “encouraged Jack to have sex with her.”⁶⁴³ Jack’s sexual abuse of Lisa “went on for three years.”⁶⁴⁴ Lisa was a “withdrawn young girl,” and she “read a lot.”⁶⁴⁵ Carl “knew that something was wrong” and that “Lisa had a lot of problems . . . Lisa was not emotionally present. She was in her own world and distant from everything . . . Lisa went somewhere else mentally. She just wasn’t present.”⁶⁴⁶

Lisa’s first cousin, Kenneth Alexander, admitted to having sexual intercourse with Lisa in the early to mid ‘80’s when he was visiting; she may have been as “young as thirteen.”⁶⁴⁷ Lisa could not escape the repeated sexual assaults by members of her own family.

Lisa found a sliver of hope in the summer of her tenth grade year. School staff selected her to participate in a summer program for promising students at a nearby college. Lisa attended the summer program, did well in it, and for the first time saw a way out of the life for which Judy and her stepfather had groomed her. She returned to the program the summer of her eleventh grade and did well in the program again, cementing in Lisa the notion that she could possibly have a future beyond Sperry. A recruiting officer came to Lisa’s high school her senior year, and Lisa quickly realized that she could join the U.S. Air Force and escape Judy. She signed up and received a date for active enrollment.

⁶⁴¹ Id.

⁶⁴² Id.

⁶⁴³ Id.

⁶⁴⁴ Id.

⁶⁴⁵ Id.

⁶⁴⁶ Attachment 105, Declaration of Carl Boman, 2-13-2013

⁶⁴⁷ Attachment 70, Declaration of Kenneth Alexander, 12-9-2012.

5. On-Set of Mental Illness

a. Judy Derailed Lisa's Plan to Escape.

Judy brought her new boyfriend's son into the house and encouraged a sexual relationship between the son and Lisa. Richard's son, Carl Boman, was 22 years old; Lisa was only 16. Judy spent most of her time at Richard's home and required Lisa to stay home to care for Patty, Tommy, Teddy, and Jerri Jo, plus another of Richard's sons, Michael. Judy encouraged 16 year old Lisa and 22 year old Carl to "play house" and take over responsibilities for the day to day care of the household while Judy and Richard enjoyed their new romance.

Lisa's plans for an independent life were contrary to Judy's plans, and Judy knew how to erase contrary plans. Lisa "felt powerless because she felt controlled by her mother."⁶⁴⁸ Judy's wrath was frightening around this period. She asked Richard, her new boyfriend and soon to be forth husband, if he "would shoot Jack Kleiner from up on the butte."⁶⁴⁹

Lisa buckled under the day to day chores of rearing five children, cleaning, cooking, laundering, attending to children's needs, and getting children to and from school and simultaneously trying to maintain her grades; she lost her dream of joining the air force. Carl began a sexual relationship with Lisa, proposed marriage, and Lisa agreed in her senior year. For a brief period, Lisa regained some strength and ended the engagement, and Carl moved out. Lisa still served as a slave to Judy, cleaning, laundering, and tending to Judy's children without benefit. She reached her limit and begged Carl, who had his own apartment, to allow her to move in with him -- as a friend, not as a future wife. He agreed, but the relationship again became sexual, and Lisa became pregnant.

⁶⁴⁸ Attachment 19, Declaration of Wendy Treibs, 2-23-2013.

⁶⁴⁹ Attachment 106, Declaration of Richard Boman, 1-8-2013.

Lisa transferred from Sperry High School to Cleveland High School in Tulsa, her tenth school transfer, and began her senior year on August 26, 1985. She received good grades, achieving A's and B's in all subjects. She took the ACT exam on December 5, 1985 and performed poorly. Her scores were: English 23 (84th percentile); Mathematics 14 (39th percentile); Social Studies 24 (79th percentile); Natural Science 29 (88th percentile) with a composite score of 23 (76th percentile). She took the ACT exam again on January 28, 1986. Her scores were: English 24 (89th percentile); Mathematics 22 (69th percentile); Social Studies 29 (94th percentile); Natural Science 32 (97th percentile) with a composite score of 27 (92nd percentile). Both tests show significant disparity between her language and mathematics ability, which may indicate brain damage.⁶⁵⁰

She graduated high school with a GPS of 3.24, pregnant, and ineligible for her career in the air force. Judy won the contest and the prize of a grandchild that sealed the relationship with her husband, Richard, and kept Lisa under Judy's sphere of control. Her first day of duty was scheduled for August, but she was pregnant with her first child and separated from the Air Force effective her first day of duty.⁶⁵¹

Judy married Richard Boman September 21, 1985, in Vera, Oklahoma, and in less than two months "Richard filed for divorce" in Pahasuka, Oklahoma.⁶⁵² They officially divorced in November 1989.⁶⁵³

Richard, according to his son and Lisa's husband "was blinded by love and didn't see how mean Judy was. He was infatuated with Judy and seemed blind to the way she treated"

⁶⁵⁰ Attachment 107, Lisa Montgomery, Cleveland High School Transcript.

⁶⁵¹ Attachment 108, Lisa Montgomery, Enlistment records, IA73.

⁶⁵² Attachment 2, Declaration of Lisa Rickert, incorporating interview with Judy Shaughnessy, 7-26-2005. Judy reported she and Richard "got back together" within the time frame to have the divorce nullified, and she falsely reported they divorced in 1989 and remarried in 1990. She has also reported they officially divorced in 1996 in Deming, New Mexico.

⁶⁵³ Attachment 2, Declaration of Lisa Rickert, incorporating interview with family members 3-10-2005.

Richard's son, Michael. Judy created an atmosphere that allowed siblings to bully and taunt the 10 year old Michael Boman.⁶⁵⁴ Michael was in the sixth grade in Cleveland Public Schools, and performed as a B-C student in the 1985-1986 school year. After moving in with Judy, his grades dropped in the 1986-1987 school year to all C's with one D.⁶⁵⁵ Michael documented his years of abuse and maltreatment at Judy's hands in his book, "The Only Way to Live."⁶⁵⁶ Judy "humiliated him any chance she got, especially if it involved food . . . Judy made fun of him for being overweight and called him hurtful names."⁶⁵⁷

Michael figured out that Judy was "totally two faced" and "a user" who had him "cleaning the house" while his dad worked. Children in the home argued and fought with each other, and Michael was no exception.⁶⁵⁸ Michael lived with Judy and his dad until October 1, 1991, when he fled the home for safety at a friend's home that took him in and provided him a surrogate, loving family.⁶⁵⁹

At one point, Judy raised Patty, Teddy, Tommy, Jerri Jo, and Michael Boman, Richard's child from another marriage. Becky and Jackie,⁶⁶⁰ two of Jack's children from his marriage to Willadean, saw firsthand that Teddy, Tommy, and Jerri Jo "picked on" Michael, without any worry that Richard would protect Michael.⁶⁶¹ Judy was "very mean" to Michael⁶⁶² and

⁶⁵⁴ Michael Boman was born to Richard Boman and one of his ex-wives, Yoko. Michael's birthday is 12-5-1974. (Attachment 109, Michael Boman Valhalla High School).

⁶⁵⁵ Attachment 110, Michael Boman Cleveland Public Schools.

⁶⁵⁶ Michael Boman, *The Only Way to Live. My Life and Coping with ALS*. ISBN: 978-1-300-01132-3, June 2012.

⁶⁵⁷ Attachment 105, Declaration of Carl James Boman, 2-13-2013.

⁶⁵⁸ Michael Boman, *The Only Way to Live. My Life and Coping with ALS*. ISBN 978-1-300-01132-3, June 2012.

⁶⁵⁹ Attachment 113, Michael Boman Mar Vista High School.

⁶⁶⁰ After Jack and Judy divorced, Jack returned to Willadean. Jack's children continued to see Judy's children when they visited Jack. Willadean loved Judy's children, and they loved her. (Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett, 7-12-2005). Lisa loved Willadean and once made her a potholder in second grade. Lisa "saw how nice their mother was and Judy was always so strict." (Attachment 2, Declaration of Lisa Rickert, incorporating interview of Penny Craig 7-12-2005.)

⁶⁶¹ Attachment 2, Declaration of Lisa Rickert, incorporating interview of Becky Perky and Jackie Moffett, 7-12-2005.

⁶⁶² Id.

“terrorized him.”⁶⁶³ Judy was adept at being “conniving and manipulative,” so much so that Michael “didn’t know if what she said was true or not. Judy’s dishonesty confused Michael.”⁶⁶⁴ Michael’s friend offered an example of the lengths to which Judy went to destroy anything that Michael valued:

Michael told me a story about his pet goat he had when they lived on a farm outside of Vera, OK. Michael loved his goat, and it became a real pet, a pleasant escape from his angry stepmom. Michael knew that his family had planned to move and had been getting rid of other animals. However, he wasn’t prepared for what he heard when he got off the school bus one day. He heard cries of agony and pain from his pet goat as it was beaten to death . . . A few nights later, Judy served Michael’s goat for dinner and called it mystery meat.⁶⁶⁵

b. Marriage to Carl Boman: Back to Where She Started.

Lisa abandoned all hope for a future. She had no strength or will to resist Judy, Carl, and Richard, all of whom wanted her to marry Carl. 18 year old Lisa and 25 year old Carl married August 15, 1986, in Cleveland, Oklahoma, at the First United Methodist Church with the Reverend Orva G. Compton officiating.⁶⁶⁶ She was forlorn, frail, and childlike in her wedding picture. She had one child after another, never recovering physically or mentally from pregnancy, birth, and demands of newborns before becoming pregnant with the next child. By the time of her fourth and final child’s birth, Lisa was in the throes of major mental illness and so out of touch with reality that she did not know if she had, in reality, given birth to her fourth child, or if it was a dream.

Marriage to Carl catapulted Lisa back to the days of violent sexual assault by Jack when she was powerless to protect herself. Carl’s pre-marital behavior towards Lisa could have warned a normally functioning person to beware, but Lisa had no ability to recognize what was her due,

⁶⁶³ Attachment 114, Declaration of David J. Stadler, 1-28-2013.

⁶⁶⁴ Id.

⁶⁶⁵ Id.

⁶⁶⁶ Attachment 115, Lisa Hedberg and Carl Boman, Marriage Certificate, 8-15-1986 .

what to expect, or what to prohibit based on her maltreatment as a child. In one notable incident before marriage, Carl shoved Lisa, who was naked getting out of a shower, against a wall heater that burned her flesh while he had sexual intercourse with her.

His behavior became more aggressive and more violent during their marriage. He beat her, tied her in stress positions, poured hot wax on her, forcibly inserted glass bottles in her anus and vagina, held a knife to her throat, and sexually assaulted her. He bruised and hurt her. He recorded her screams and pleas for help on his video camera. Lisa, ashamed, humiliated, and fearful, told her mother about it. Judy went to Carl and told him Lisa confided in her. Lisa did not seek help again. She grew to expect the violence and lived in sickening anticipation of its reoccurrence.

c. Four Babies in Four Years

Lisa and Carl rushed from having one child to the next, without being aware or considering the impact of so many childbirths in such a short time frame on Lisa's fragile mind. Her first baby, Desiree Nicole, was born January 11, 1987, followed 18 months later by Chelsea Lynn on July 9, 1988.⁶⁶⁷ Even less time for recovery and stability passed before the third child was born 15 months after the second; Carl James II (C.J.) was born October 20, 1989.⁶⁶⁸ Lisa's fourth and final baby, Kayla Deanne, came a mere 10 months after the third baby.⁶⁶⁹

Lisa was "just a teenager and did not know how to mother," but Carl "never doubted that she loved the children."⁶⁷⁰ Lisa's first baby, Desiree (Desi) was a low birth weight baby, weighing only 4 pounds 8 ounces when she was born at Hominy City Hospital, Oklahoma.

⁶⁶⁷ Attachment 116, Desiree Nichole Boman, Birth Certificate; Attachment 152, Boman v. Boman, Sixth Judicial Dist. Ct., Luna, NM, No. DM 0098-000-102.

⁶⁶⁸ Attachment 118, C.J. Boman, Deming School Records; Attachment 119, C.J. Boman, Jane Phillips Memorial Medical Center Birth Certificate; Attachment 152, Boman v. Boman, Sixth Judicial Dist. Ct. Luna, NM, No. DM-0098-000-102.

⁶⁶⁹ Attachment 152, Boman v. Boman, Sixth Judicial Dist. Ct., Luna, NM, No. DM-0098-000-102.

⁶⁷⁰ Attachment 105, Declaration of Carl James Boman, 2-13-2013.

Eighteen year old Lisa and twenty five year old Carl lived at 703 South Wood in Hominy, Oklahoma. Lisa worked for Oklahoma Nursing Homes, Ltd, earning \$1360.11, and took care of her newborn.⁶⁷¹ She had to stop work when she was pregnant with her second baby but really missed it.⁶⁷² In 1988, she earned only around \$1,000 from Oklahoma Nursing, Ltd.

Lisa had another significant head injury in a car accident January 26, 1988, when she hit another vehicle from the rear and sustained a concussion. She was pregnant with Chelsea, her second child, and went to Hominy Hospital for headaches.⁶⁷³

Meantime, Lisa's beloved cousin, Wendy Treibs, Aunt Darlene's daughter, was psychiatrically hospitalized for the sixth time February 2, 1988. Wendy was diagnosed with major depressive disorder with mood congruent psychotic features and had a host of associated conditions including a delusional depressive disorder of life threatening proportions. She had atypical anorexia and a history of childhood sexual trauma, and had been brutalized by her brother.⁶⁷⁴ She had been treated unsuccessfully with electroconvulsive therapy and anti-depressants, and when those failed to work, was treated with lithium, a mood stabilizer commonly prescribed for bipolar patients. She also had a past history of Chvostek's sign, a twitch of facial muscles following gentle tapping over the facial nerve in front of the ear that indicates hyper irritability of the facial nerve.

Lisa's feeling of safety and security for her new family evaporated in the heat of her mental illness. She soon looked kind of "slobby" dressed in clothes that looked old.⁶⁷⁵ Lisa's

⁶⁷¹ Attachment 120, Lisa Montgomery, Social Security Itemized Statement of Earnings.

⁶⁷² Attachment 121, Lisa Montgomery, 1988 Datebook.

⁶⁷³ Attachment 121, Lisa Montgomery, 1988 Datebook.

⁶⁷⁴ Attachment 262, Santa Rosa Hospital Records; Wendy's brother is Kenneth Dale Alexander, the same person who sexually assaulted Lisa.

⁶⁷⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Becky Perky and Jackie Moffett, 7-12-2005.

houses “were always roach-infested,” and she “was a messy housekeeper.”⁶⁷⁶ They were poor.⁶⁷⁷ Lisa was unhappy with her marriage to Carl Boman. In 1988, pregnant with Chelsea and with toddler Desiree in tow, she sought out Carl McClain, her high school sweetheart, who had separated from his wife and lived at home with his parents.⁶⁷⁸ Carl McClain told Lisa “he still cared about her.”⁶⁷⁹ Carl McClain and Lisa caught up with other’s lives, and Carl McClain learned that Judy married Richard Boman and that Lisa married Richard’s son Carl Boman. Carl McClain learned from Lisa that Judy had threatened to take Lisa’s children from her. Despite their attraction to each other, they both decided to work on their marriages and did not see each other, a promise that lasted again until 2001.⁶⁸⁰

Lisa gave birth to Chelsea Lynne, who weighed five pounds and was her second child July 9, 1988. The family moved to Hominy, Oklahoma in the fall of 1988. Lisa and Carl moved from one place to the next and in short order lived in an apartment on Wood Street, a house on Wood Street, and a house at 323 West 6th Street.⁶⁸¹ Carl worked at the prison and put in a “lot of overtime,” and Lisa worked briefly at a nursing home.⁶⁸² Lisa “talked a lot,” mostly about their children.⁶⁸³ Lisa was young and liked being a mother but her mood fluctuated from day to day. She was “sometimes happy” with Carl and “sometimes not.”⁶⁸⁴

Lisa had headaches and was depressed. She and Carl argued, and she asked herself, “Why can’t I do anything like I should.”⁶⁸⁵ She wished she had a job and recognized that she

⁶⁷⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Tommy Kleiner, 3-9-[2005].

⁶⁷⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Desiree Boman, 3-9-2005.

⁶⁷⁸ Id.

⁶⁷⁹ Id.

⁶⁸⁰ Id.

⁶⁸¹ Attachment 122, C.J. Boman, Birth Records; Attachment 118, C.J. Boman, School Records Deming, NM; Attachment 119, C.J. Boman, Birth Certificate; Attachment 2, Declaration of Lisa Rickert incorporating interview with Roberta and James Upshaw, 7-13-2005.

⁶⁸² Attachment 2, Declaration of Lisa Rickert incorporating interview with Roberta and James Upshaw, 7-13-2005.

⁶⁸³ Id.

⁶⁸⁴ Id.

⁶⁸⁵ Attachment 121, Lisa Montgomery, 1988 Datebook.

was “not cut out to be a housewife.”⁶⁸⁶ Judy reported Lisa for neglecting Desiree, and a case worker for the Child Welfare Department of Pawnee County visited Lisa on March 25, 1988.⁶⁸⁷ Lisa’s father in law noticed that Lisa “seemed to be in a world of her own. . . .She just stared off and wasn’t engaged with the conversation.”⁶⁸⁸ Judy continued to run “rough shod over Lisa,” and “always screamed” at her.⁶⁸⁹

Lisa’s poor judgment and hyper-sexuality brought trouble to her door, and she had an affair with someone her husband worked with.⁶⁹⁰ She asked her neighbors, the Upshaws, if she could stay with them “because Carl was upset.”⁶⁹¹ Sometime between April and September 1989, Lisa lived with the Upshaws about one month. James Upshaw’s brother, Gerald Upshaw, 43, also lived in the home and had a brief sexual relationship with Lisa when she was pregnant with C.J.⁶⁹² C.J. was born October 20, 1989.⁶⁹³

Lisa was “often tired” and “sort of depressed.”⁶⁹⁴ Her children “were not always clean, sometimes they had no shoes, sometimes no pants and they ran around in their diapers.”⁶⁹⁵ The children “weren’t always clean or properly dressed.” Lisa moved back with Carl after a month or so and Gerald left the area.⁶⁹⁶

Mental illness continued to create crises in Lisa’s extended family. Kenny Alexander, Wendy Treibs’ brother and Lisa’s maternal cousin, was evaluated to determine if he was

⁶⁸⁶ Id.

⁶⁸⁷ The next day, March 26, Lisa’s sister Patty married Michael Harness, but Lisa did not bring Desiree Boman to the wedding because of the child welfare referral the day before. (Attachment 121, 1988 Datebook).

⁶⁸⁸ Attachment 106, Declaration of Richard Boman, 1-18-2013.

⁶⁸⁹ Id.

⁶⁹⁰ Declaration of Lisa Rickert incorporating interview of Roberta and James Upshaw, 7-13-2005.

⁶⁹¹ Id.

⁶⁹² Id.

⁶⁹³ Attachment 122, C.J. Boman, Jane Phillips Memorial Medical Center Birth Records.

⁶⁹⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview of Roberta and James Upshaw, 7-13-2005.

⁶⁹⁵ Id.

⁶⁹⁶ Id.

competent to stand trial for burglary. His social work history noted he had prior suicide attempts. His testing scores indicated he had “decompensating obsessive-compulsive with schizoid personality features.”⁶⁹⁷

Lisa turned 21 years old February 27, 1989, and her depression hit her with full force. She “quit working, totally exhausted” the end of April.⁶⁹⁸ She was pregnant with her third child, due to be born September 5, 1989. Lisa went into labor early August 22, 1989, went to the hospital, and staff administered tributaline sulfate to stop labor. Gestation was at 38 weeks. She returned home.⁶⁹⁹ Almost two months later, October 20, 1989, Lisa gave birth to Carl J. Boman (C.J.), in Bartlesville, Oklahoma. C.J. was Lisa’s third baby and weighed five pounds.⁷⁰⁰ Lisa did not work at the time she had the baby, but she earned approximately \$1700 in 1989 from a local family.⁷⁰¹ Carl worked at Conner Correctional Center for five years and “quit due to stress.”⁷⁰²

Lisa moved from one place to the next precipitously, without notice or much of a plan, acting in response to the combination of mood swings, trauma, and possible brain damage. In November, 1989, with month old C.J., Chelsea, and Desiree, Lisa moved to Ponca City and stayed in an older man named Lonnie’s trailer. She “just left without a word or a goodbye” to her neighbors in Bartlesville.⁷⁰³ She received WIC⁷⁰⁴ assistance. She worked at a gas station

⁶⁹⁷ Attachment 123, Kenneth Dale Alexander, TX Dept. of Mental Health and Mental Retardation, Competency Exam, 1-13-1989.

⁶⁹⁸ Attachment 125, Lisa Montgomery, 1989 Datebook.

⁶⁹⁹ Attachment 124, Lisa Montgomery, Jane Phillips Memorial Medical Center, 8-22-1989; Attachment 125, 1989 Datebook.

⁷⁰⁰ Attachment 119, C.J. Boman, Birth Certificate; Attachment 126, Scripps Memorial Hospital; Attachment 124, Jane Phillips Memorial Medical Center.

⁷⁰¹ Attachment 120, Lisa Montgomery, Social Security Itemized Statement of Earnings.

⁷⁰² Attachment 127, Carl Boman, OK Worker’s Compensation Records; Attachment 128, C.B. Pettigrew, D.O., 1-25-2005.

⁷⁰³ Attachment 2, Declaration of Lisa Rickert incorporating interview of Roberta and James Upshaw, 7-13-2005.

⁷⁰⁴ WIC provides federal grants to states for supplemental foods, health care referrals, and nutrition education for low-income pregnant women and infants.

(Hammer-Williams Co.) in Ponca City and earned \$1309 in 1990.⁷⁰⁵ Carl moved to Ponca City because the older man Lonnie died, and Carl and Lisa reunited briefly. A friend saw Lisa after she moved back from Ponca City and remembered “how bad she looked and how terrible she smelled . . . The smell was very offensive, to the point you couldn’t stand to be next to her. Her hair was greasy and her clothes were dirty, but she didn’t seem to notice.”⁷⁰⁶

Judy colluded with Carl who learned too late that “Judy knew how to manipulate people to get her way.”⁷⁰⁷ Judy convinced Carl “to let her take the kids for the summer,” but intended all along to “try to keep the children.”⁷⁰⁸ In January 1990, Carl and Judy took Desiree and Chelsea to California. Lisa drove to California to get her children, stopping at Aunt Darlene’s along the way. When she arrived in California, she had no money and no job. She had no choice but to stay in California in a trailer with Carl, the children, and Carl’s sister, Eithol Boman. Carl worked for Pepsi and as a security guard. Lisa was pregnant with her fourth child, and her family was uncertain who the father was. As her pregnancy began to be visible, Carl and his sister grew angry with Lisa. Lisa had to move in with Judy and Richard. She received public assistance. Judy’s house was chaotic. Patty left one of her children with Judy and Lisa. Teddy Kleiner and Michael Boman lived in the house.

Lisa’s fourth pregnancy and labor were complicated. The pregnancy was confirmed with a sonogram that showed a viable fetus July 20, 1990, at a medical clinic in Chula Vista, California.⁷⁰⁹ On August 13, 1990, Lisa was admitted to the hospital with preterm labor at 29 weeks gestation and given medication to slow rapid contractions and was transferred to UCSD

⁷⁰⁵ Attachment 120, Lisa Montgomery, Social Security Itemized Statement of Earnings.

⁷⁰⁶ Attachment 129, Declaration of Gerald Upshaw, 1-28-2013.

⁷⁰⁷ Attachment 105, Declaration of Carl James Boman, 2-13-2013.

⁷⁰⁸ Id.

⁷⁰⁹ Attachment 126, Lisa Montgomery, Scripps Memorial Hospital, Chula Vista, CA, Fetal Age Sonogram, 8-13-1990.

for assistance. She was anemic, uncertain of the date of conception, was RH negative, was treated for Chlamydia, and smoked a pack of cigarettes a day. She also had tocolipis (colitis).⁷¹⁰ Lisa had several problems on transfer: she could not date her pregnancy because she “had no periods since her last delivery 10 months ago.” The fetus had intermittent arrhythmia.⁷¹¹

On August 18, 1990, Lisa’s fourth and final child, Kayla Deanne, was born prematurely, very compromised and in jeopardy. She had “a weak cry,” Kayla weighed only 3 pounds 2 ounces and had to remain in the hospital seven weeks.⁷¹² The infant was positive for Chlamydia, had brain bleeds (intraventricular hemorrhage, subependymal hemorrhage left greater than on the right) within the first few days, hyperbillirubin, apnea and bradycardia, hyper-magnesium, hyper-calcemia, and hyper-phosphatemia. Lisa’s mother, Judy, was also in San Diego, but a medical note reported Judy might “not be able to help.”⁷¹³

Medical records noted that Kayla’s parents were married, involved and interested, but do note that Carl was not the biological father.⁷¹⁴ Records also show that at one point after giving birth to Kayla, Lisa was non-responsive, lethargic, very slow, drowsy, and did not follow commands. Her hand grip was weak. Her symptoms appeared to be magnesium medication related, and they discontinued magnesium as the “most likely cause for alteration in consciousness,” but noted a differential diagnosis “would include pituitary apoplexy, venous thrombosis, meningitis; CNS bleed.”⁷¹⁵ Her condition was monitored closely, and her mental status returned to baseline.⁷¹⁶ After Kayla was born, Lisa “want[ed] to visit baby” and “want[ed]

⁷¹⁰ Attachment 130, Kayla Boman, University of CA San Diego, Birth Records; Attachment 126, Lisa Montgomery, Scripps Memorial Hospital.

⁷¹¹ Attachment 130, Kayla Boman, University of CA, San Diego, Birth Records.

⁷¹² Id.; Attachment 131, Kayla Boman, University of CA, San Diego, Post-Birth Records.

⁷¹³ Attachment 130, Kayla Boman, University of CA, San Diego, Birth Records.

⁷¹⁴ Attachment 131, Kayla Boman, University of CA, San Diego, Post-Birth Records.

⁷¹⁵ Attachment 130, Kayla Boman, University of CA, San Diego, Birth Records.

⁷¹⁶ Id.

to breast feed.”⁷¹⁷ The physician discussed “contraception” with Lisa and instructed her to follow up with her primary medical doctor at Scripps.⁷¹⁸ Medical notes called for “f/up with PMD @ Scripps,” but Lisa didn’t follow up. Lisa wanted to go home, and was discharged from the hospital and moved back in with Carl in a trailer on Judy and Richard’s property.⁷¹⁹ A nurse noted that Lisa had “good support” from her husband and family, but another entry questioned if Lisa’s mother, Judy, who was also in San Diego, might “not be able to help.”

Kayla remained hospitalized six weeks for further evaluation and treatment. On September 7, 1990, she was evaluated to rule out Williams Syndrome. Her weight was in the third percentile for age, and her head circumference was less than the third percentile for age. Kayla was somewhat hypotonic. The cranium showed “very significant sagittal and lambdoidal suture overriding.”⁷²⁰ The physicians concluded Kayla did not appear to have Williams syndrome, but pointed out it was a difficult diagnosis to make and that further evaluation was necessary with growth.⁷²¹ With Kayla hospitalized, Lisa’s depression worsened and her psychotic symptoms bloomed. She was unable to tell if Kayla had really been born and if Kayla was really in the hospital. She simply did not know what was real and what was not real.

Despite her depression and disconnect from reality, Lisa tried her best to provide the care her children needed. Two month old Kayla returned to the hospital for a pulmonary follow up treatment on October 15, 1990, and medical reports described Lisa’s marital status as separated. Kayla was doing well on formula and was alert and active, but she was diagnosed with apnea. Kayla had a pediatric endocrine evaluation on October 17, 1990, which attempted to establish the

⁷¹⁷ Attachment 130, Kayla Boman, University of Ca., San Diego, Birth Records.

⁷¹⁸ Id.

⁷¹⁹ Id.

⁷²⁰ Attachment 131, Kayla Boman, University of CA, San Diego, Post-Birth Records.

⁷²¹ Id.

cause of her hyper-calcemia. During the course of the hyper-calcemia evaluation, staff determined;

. . . that Kayla's mother had two serum calciums of 6.6 and 6.1 during the pregnancy. This is complicated by the fact that she was receiving magnesium and magnesium levels were elevated at 5.9 and 7.0. Neither did she have evidence of hyperphosphatemia, suggesting that the mother was hypoparathyroid.⁷²²

Kayla's physician requested a calcium and phosphorus read on Lisa to help determine if Kayla's transient hyperparathyroidism was secondary to maternal hypocalcemia. The physician noted that Lisa was "quite hyper reflexic" and had a positive Chvostek" and diagnosed Lisa with possible hypoparathyroidism.⁷²³ Physicians noted that Kayla's parents were "pleasant and involved and concerned."⁷²⁴ Lisa's address was 1674 Palm Avenue, #76, in San Diego, the same address as Judy's.⁷²⁵

On December 29, 1990, C.J. went to the hospital with a fever and coughing. He had been sick intermittently since before Thanksgiving, often with a drippy nose and cough. The 11th month old looks "miserable and somewhat, but not toxic" and "dirty and grimy."⁷²⁶ The physician instructed Lisa to keep shoes and socks on him and to "see to it" that C.J. gets his medicine.⁷²⁷

d. Sterilization

Inconsistent narratives surround the decision for Lisa to be sterilized after Kayla's birth. Lisa continued to function encumbered by a loss of contact with reality. From day to day she

⁷²² Id.

⁷²³ Id.

⁷²⁴ Id.

⁷²⁵ Attachment 132, Kayla Boman, Children's Hospital, San Diego, 10-15-1990; Attachment 113, Michael Boman, Mar Vista School Records.

⁷²⁶ Attachment 133, C.J. Boman, Scripps Memorial Hospital, Admitting Physical Examination, 12-29-1990.

⁷²⁷ Id.

was unsure what was real and what was not. Judy's presence and constant pressure complicated Lisa's ability to make choices as Judy had always dictated what was true for Lisa.

Medical records show that she was admitted to Scripps Mercy Hospital in San Diego October 22, 1990, and that she "desire[d] permanent sterilization."⁷²⁸ Whether Lisa's participation in the counseling and authorization for the procedure was knowing is debatable: Kayla was known to not be Carl's child,⁷²⁹ Carl and Judy explained to Lisa that sterilization was the least she could do as Carl was agreeing to raise Kayla as his own child. Whether such threat was real or only in Lisa's mind, Lisa felt that if she did not have the procedure, Carl and Judy would force her to give Kayla up for adoption.

Surgeons performed a bilateral tubal fulguration on Lisa. At the time of the surgery Lisa was unemployed and on Medi-Cal. Her treating physician counseled her that the sterilization was irreversible. Lisa's family history was notable for congenital deformities, including an aunt with a missing hand and a niece or nephew with a missing ear. According to Carl, Lisa "really wanted [the procedure]," and told Carl the doctor had "advised her not to have more children."⁷³⁰ Although Carl described it as a "mutual decision," Lisa was tormented by the surgery and told others that she was coerced into it by threats that Judy would take her children away if she did not have the surgery.

⁷²⁸ Attachment 126, Lisa Montgomery, Scripps Memorial Hospital, Operative Report, 10-23-1990.

⁷²⁹ Attachment 131, Kayla Boman, University of CA, San Diego, Post-Birth Records.

⁷³⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview of Carl Boman, 4-14-2005.

6. Betrayed by Her Own Mind, Lisa Loses Her Grasp of Reality.

a. *Descent into Mental Illness (1991)*

By 1991, Lisa was unable to focus, pay attention, and attend to her four small children.

Her symptoms of her mood disorder were more pronounced and deepened by re-experiencing the sexual trauma of her youth at now Carl's hands. Carl described the change in her behavior:

Lisa was unpredictable. She went from not talking to talking non-stop even to strangers. . . . [S]he even approached people she did not know and started talking to them. It was a total change. She didn't notice if you talked to her or asked her any questions. Once she started talking, she kept talking. She was sad or unhappy for days at a time and then she suddenly had a plan or an idea and nothing could stop her.⁷³¹

Desiree required medical care for dehydration secondary to herpes (herpetic gingivostomatitis) and was hospitalized two days May 7 – May 9.⁷³² On January 1, 1991, C.J. was taken to Children's Hospital in San Diego for ingesting trisodium phosphate left on a bathroom counter by a friend who was repairing the bathroom. He was treated and released. A nursing note warned that the parents had "a knowledge deficit" about home safety and accident prevention. Lisa reported that C.J. had pneumonia that required hospitalization in Oklahoma a year earlier.⁷³³ C.J. was examined at Children's Hospital in San Diego for bowlegs (bilateral tibial torsion) April 25, 1991, and the orthopedist recommended follow up in six months, but records do not show any follow up.⁷³⁴

⁷³¹ Attachment 105, Declaration of Carl James Boman.

⁷³² Attachment 134, Desiree Boman, Children's Hospital and Health Center, San Diego, H&P Exam, 5-12-1991.

⁷³³ Attachment 135, C.J. Boman, Children's Hospital, San Diego, 1-25-1991.

⁷³⁴ Attachment 136, C.J. Boman, Children's Hospital, San Diego, 4-25-1991.

On February 27, 1991, Lisa took Kayla to the clinic at UCSD for ongoing neuro-developmental follow up. Kayla failed a BAERs⁷³⁵ test administered earlier in the month. Lisa was found to have positive Chvostek reflexes (facial twitch upon tapping), which was also found in her cousin Wendy, and “very brisk deep tendon reflexes.”⁷³⁶ A public health nurse saw the family on a regular basis. An entry titled Psychosocial summarizes the flux in Lisa’s life:

This is a single mother with four children ages 4 years, 2 years 1 year, and Kayla who is 6 months old. Originally she had moved here from Oklahoma after father had taken the two older children. The father of three older children is not the father of Kayla. Mother plans to take her four children and move back to Oklahoma no later than June of 1991.⁷³⁷

Kayla was six months old but tested at 18 weeks adjusted age on the Gessell Developmental Test. During the evaluation, the “behavioral parental interaction was appropriate.”⁷³⁸

On May 1, 1991, Lisa brought two year old Chelsea to the hospital for having increasing sores (herpes) in her mouth for two days in increasing severity. Chelsea was well developed and well-nourished with a history of taking Alupent for occasional wheezes. She also had a fever and otitis media, was treated with lidocaine and antibiotics, and discharged home. Chelsea “was in the process of moving.” She lived with her mother at 1752 Harbison Canyon Road in El Cajon, California; her mom was unemployed and received Medi-Cal insurance for her children.⁷³⁹

Desiree “wandered onto a ball field,” was hit in the face with a softball, and sustained a mild concussion with brief loss of consciousness and bruising on May 12, 1991. Desiree’s lips were cracked and swollen from her herpetic stomatitis a few days earlier. She was admitted to

⁷³⁵ Brainstem auditory evoked response (BAER) is a test to measure the brain wave activity that occurs in response to clicks or certain tones.

⁷³⁶ Attachment 131, Kayla Boman, University of CA, San Diego, Post-Birth Records.

⁷³⁷ Id.

⁷³⁸ Id.

⁷³⁹ Attachment 137, Chelsea Boman, Scripps Memorial Hospital, Chula Vista, 5-1-1991.

special care of the trauma service. Desiree's social history noted that she slept with Lisa or on the couch at home, and her usual play activity was coloring books.⁷⁴⁰

Lisa was not able to meet the everyday challenges of parenting, and her children's medical crises overwhelmed her. Four year old Desiree was an unrestrained passenger in a car accident July 24, 1991, when the car fell down an embankment. She was hospitalized until July 27, 1991, with serious injuries. She sustained a fracture of her mandible that required wiring, a concussion, a closed fracture of the distal end of the radius, and open wounds to her face, knee, leg, and ankle that required stitches. She broke her right arm and jaw and sustained a concussion. Lisa attended to Desiree in the hospital, was at her bedside, and read Desiree a book as Desiree sat in Lisa's arms. Carl also visited Desiree. Lisa told hospital staff that Desiree would be "moving to Oklahoma in two weeks." so physicians ordered follow up to be obtained in Oklahoma for her fractured mandible and fractured right wrist.⁷⁴¹

Lisa had a sexual relationship with another man, and Carl was "very hurt."⁷⁴² Carl and Lisa moved back to Oklahoma and lived on Cass Street in Bartlesville. Carl worked at Wells Fargo and then the Refinery. Lisa contacted her former neighbors, the Upshaws, in 1991 or 1992 and invited the Upshaws to visit them in Bartlesville. The Upshaws visited Lisa and her family twice, both times to find Lisa in odd circumstances. On one visit, Lisa and Carl lived in a house with "a bunch of people," including three or four guys.⁷⁴³

On the Upshaw's second visit, Lisa and Carl lived in a two-story home that was "filthy."⁷⁴⁴ Desiree and Chelsea instructed the Upshaws not to go in the "trash room."⁷⁴⁵ The

⁷⁴⁰ Attachment 138, Desiree Boman, Children's Hospital, San Diego, 5-12-1991.

⁷⁴¹ Attachment 139, Desiree Boman, Children's Hospital and Health Center, Discharge Summary, 7-27-1991.

⁷⁴² Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁷⁴³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Roberta and James Upshaw, 7-13-2005.

⁷⁴⁴ Id.

⁷⁴⁵ Id.

door to the “trash room” was opened, with “trash piled almost to the ceiling.”⁷⁴⁶ The Upshaws concluded that Lisa “was lazy and didn’t clean at all.”⁷⁴⁷ Carl saw it differently. “Caring for four kids was hard on Lisa. She had no freedom.”⁷⁴⁸ Lisa tried to work, but only made about \$1300 working at an ice cream store and at the Bartlesville Nursing Home.⁷⁴⁹ Carl admitted a decade later that he “should have been more aware of her needs.”⁷⁵⁰

On September 4, 1991, Lisa took Desiree to the Green Country Clinic for follow up. Lisa and Desiree lived at 141 North Cass in Bartlesville, and Lisa worked at Braum’s.⁷⁵¹ Chelsea suffered a severe asthmatic attack and required an inhaler and a trip to the ER August 29, 1991.⁷⁵² Lisa’s health deteriorated at the end of 1991 and early 1992. She was treated in the ER November 24, 1991, after a nursing home resident twisted Lisa’s arm. A week later on December 1, 1991, Lisa went back to the ER with lumbar pain and was diagnosed with mild levorotosclerosis (scoliosis). On January 31, 1992, Lisa had a pelvic sonogram which showed tiny follicular cysts.⁷⁵³

Lisa’s mood swings and behavior were unpredictable, and she moved from one crisis to the next. Ultimately her marriage shattered under the pressure created by Carl’s violent sexual behavior toward her and her multiple impairments. In June 1992, Lisa “just moved out.”⁷⁵⁴ She had a two month affair with “Mike.”⁷⁵⁵ She moved into a little efficiency apartment, and her brother Teddy, who was 16 years old, moved in and helped her for three months. He also helped

⁷⁴⁶ Id.

⁷⁴⁷ Id.

⁷⁴⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁷⁴⁹ Attachment 120, Lisa Montgomery, Social Security Itemized Statement of Earnings.

⁷⁵⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁷⁵¹ Attachment 140, Desiree Boman, Jane Phillips Memorial Medical Center, 9-4-1991.

⁷⁵² Attachment 141 Chelsea Boman, Jane Phillips Memorial Medical Center, 8-29-1991.

⁷⁵³ Attachment 142, Lisa Montgomery, Jane Phillips Memorial Medical Center, 1-31-1992.

⁷⁵⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁷⁵⁵ Id.

Carl, who had the kids.⁷⁵⁶ Carl took Chelsea to the ER July 25, 1992, for difficulty breathing due to her asthma after playing in the grass with her brother. Carl gave his address as 1568 SE Colorado, did not list Lisa as a contact or as the mother, and listed a friend as the contact.⁷⁵⁷ Carl moved into a big house on South Creek and Lisa moved back in August 1992. Desiree was the only child old enough for school, and her attendance in kindergarten for the 1992-1993 school year, was abysmal. Desiree was absent 43 days and present 132 days at school. She was a “quiet” child.⁷⁵⁸

Lisa and Carl planned for Carl to work overtime for 18 months to allow them to make double payments on their home. The plan collapsed under the weight of Lisa’s inability to function. Lisa “got so wired up” she left Carl, “sometimes with the kids and sometimes without the kids” and “stayed gone a month, two months, or even four months one time, but then she came home to me.”⁷⁵⁹ She, like many people with bipolar mood disorder, spent money intended for double payment on the mortgage on frivolous items that were not necessities.⁷⁶⁰ The house “was a mess.”⁷⁶¹ Desiree missed 43 days of school during the 92-93 school year, partly due to being run over by a truck she was trying to get something out of. Lisa did not witness the accident and was not sure what happened. Desiree had tire burns on the side and abrasions on her right hip.⁷⁶² C.J. was diagnosed with asthma following a bout of lethargy, coughing, and vomiting. Lisa took him to the ER after a particularly bad bout of coughing October 8, 1992, and had to return the next day for a breathing treatment.⁷⁶³

⁷⁵⁶ Id.

⁷⁵⁷ Attachment 143, Chelsea Boman, Jane Phillips Memorial Medical Center, 7-25-1992.

⁷⁵⁸ Attachment 144, Desiree Boman, Deming Public School Records.

⁷⁵⁹ Attachment 105, Declaration of Carl James Boman, 2-13-2013.

⁷⁶⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁷⁶¹ Id.

⁷⁶² Attachment 145, Desiree Boman, Jane Phillips Memorial Medical Center, 12-26-1992; Attachment 144, Deming Public School Records.

⁷⁶³ Attachment 146, C.J. Boman, Jane Phillips Memorial Medical Center, 10-9-1992 and 10-8-1992.

Carl was confused by Lisa's reaction to him when he confronted her about her affairs, changing opinions, erratic behavior, and instability. His description of her reactions to him when he was angry and "furious" are characteristic for survivors of extreme trauma.⁷⁶⁴ Carl reported that Lisa "lacked emotion" and "ignored him . . . She rarely cried."⁷⁶⁵

b. Dramatic Deterioration (1993)

By 1993, Lisa was unable to attend to basic activities of daily living. Others could not tolerate her "terrible personal hygiene" and commented "that she hadn't bathed in a long time."⁷⁶⁶ Her arms were "brown with caked in dirt, her hair stringy and greasy."⁷⁶⁷ She could not attend to her or the children's hygiene, find and maintain safe housing, prepare and serve adequate meals, dress and monitor her children, or plan for immediate needs. She left Carl with no place to go and no plan for housing for her and the children.

Neighbors contacted Oklahoma's Department of Human Services (DHS) and reported the conditions under which Lisa, Carl, and the children lived.⁷⁶⁸ One neighbor said that "children were running around naked in front yard. Mother is drunk . . . The house is filthy. Children come to him to get food and baths."⁷⁶⁹ The neighbor reported that Lisa "offered children" to him and wished "her husband would take them and leave."⁷⁷⁰ He also believed that Lisa had backed over Desiree in the driveway, that CJ drank "plumbing stuff," and Kayla "ate a bottle of aspirin."⁷⁷¹ DHS conducted an investigation, interviewed Lisa, Carl, and two of the children, their neighbors, school personnel, and Carl's mother. DHS determined that the children were

⁷⁶⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁷⁶⁵ Id.

⁷⁶⁶ Attachment 147, Declaration of Eithol Marie Boman Towery.

⁷⁶⁷ Id.

⁷⁶⁸ Attachment 148, Lisa Montgomery. Order Authorizing Disclosure of Records Under Protective order, Case No. JMI 2013 3.

⁷⁶⁹ Id.

⁷⁷⁰ Id.

⁷⁷¹ Id.

being neglected and needed DHS intervention. The investigation covered two locations, 426 Creek and 101 Kaw, in May and June, 1993. The description of the state of affairs for Lisa and the children reveal that Lisa's functioning was severely impaired.

Lisa "appeared tired" during her interview with DHS staff.⁷⁷² She was not employed. The first house at 427 Creek had dog feces on the floor along with cereal. Desi answered the social worker's questions and told her the house was "always dirty."⁷⁷³ Desi's shoes were too tight and "left marks on her feet." The kitchen was "a mess," and there were "roaches in her house." The family could not wash clothes because the washing machine was broken. Lisa was "sick." Desi reported that Lisa was "going out and drinking bad stuff." Desi also described Lisa's loss of control when "her mother hits her head on the wall." Carl was defensive and tried to explain away problems as being due to the stresses of Lisa's kidney infections, his father's recent heart attack, and his working 16 hours a day. Two year old Kayla "appeared dirty as if she had not had a bath recently. Her hair appeared uncombed."⁷⁷⁴

Two weeks later, on June 8, 1993, the social worker found Lisa and the children at an abandoned house on Kaw and warned Lisa that Lisa had to find other housing or the worker would consult with the District Attorney's office "in regards to the children's well being."⁷⁷⁵ Lisa explained that she had separated from Carl and taken the children with her. The abandoned house had no running water or plumbing. The house "was found unsafe due to loose wires hanging from the ceiling, floor missing in the kitchen, tools, including a power drill on the floor, and no water in the home."⁷⁷⁶ The neighbor also reported that he had observed two of the

⁷⁷² Id.

⁷⁷³ Id.

⁷⁷⁴ Id.

⁷⁷⁵ Id.

⁷⁷⁶ Id.

children being sexually inappropriate with each other. It appeared that Desiree's teeth were still wired from the broken jaw she sustained in the car accident in San Diego.⁷⁷⁷

Lisa did not know or understand why she could not keep up with daily responsibilities, but she knew she was failing miserably. She explained years later, that she simply could not figure out how to do the things mothers routinely are expected to do. Lisa could not sort and arrange clothes to dress the children, figure out a plan for dressing them in the morning, plan their meals, shop for groceries necessary for meals, and prepare meals. These simple but time consuming tasks of mothering overwhelmed and confused her. She began each day by drinking whiskey and continued all day long. She did not recognize how layers of brain impairment, trauma, and mental illness interacted to prevent her from being the mother she wanted to be.

In one of her manic mood swings, Lisa met and quickly became infatuated with Brett Owens, a regular customer at the store where she worked; Lisa moved away from Carl. In 1993, Brett, like Lisa, was "unhappy" in his relationship with his wife.⁷⁷⁸ Lisa and Brett started out "chatting about surface things."⁷⁷⁹ Lisa was "sometimes moody and depressed," but she was also "smart, nice, naïve, and could be easily taken advantage of."⁷⁸⁰ Brett "cared about Lisa," who called him her "White Knight."⁷⁸¹

Carl "worked all the time" and "didn't have a lot to do with [Lisa] or the children."⁷⁸² Lisa saw Carl as not being "a good or active father," who cheated on her and was emotionally abusive.⁷⁸³ Brett helped Lisa fix her car when needed, and they started seeing each other on a

⁷⁷⁷ Id.

⁷⁷⁸ Attachment 2, Declaration of Lisa Rickert Incorporating Telephone interview with Brett Owens, 6-17-2005.

⁷⁷⁹ Id.

⁷⁸⁰ Id.

⁷⁸¹ Id.

⁷⁸² Id.

⁷⁸³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain, 7-13-2005.

more intimate level.⁷⁸⁴ Brett was involved with Lisa when she, the children, and Carl were in a major car accident when “they hit a cow.”⁷⁸⁵ Lisa sustained a concussion and had to wear a neck brace. Her headaches from the previous automobile accident worsened.⁷⁸⁶

Soon after the 1993 accident, Lisa and her children moved in with Brett. Carl “was very upset” about Lisa and Brett being together.⁷⁸⁷ Carl moved all of Lisa’s belongings to storage and left her with nothing. Lisa was “extremely passive” and “couldn’t hurt a fly,” even when it came to disciplining her children.⁷⁸⁸ Brett was surprised to see that Lisa did nothing when C.J., who was four at the time, “plugged the toilet with toilet paper,” and Lisa did not discipline him.⁷⁸⁹ On April 22, 1993, Lisa took 32 month old Kayla to the ER after Kayla took about 21 80 mg generic Tylenol. Kayla’s acetaminophen level was 4.2. The medical chart reads in part: “Older Sib apparently opened bottle for pt. Violent.”⁷⁹⁰ Kayla was treated with Ipecac and charcoal and released to her mother.⁷⁹¹ Lisa’s address was listed as 427 South Creek, Bartlesville.⁷⁹²

c. Carl Divorced Lisa

Carl filed for divorce from Lisa in Washington County, Oklahoma, on June 22, 1993. In August the four children were awarded to Lisa temporarily, and in September joint custody was agreed to. The grounds for the divorce were mutual incompatibility.⁷⁹³

⁷⁸⁴ Attachment 2, Declaration of Lisa Rickert Incorporating Telephone interview with Brett Owens, 6-17-2005.

⁷⁸⁵ *Id.*

⁷⁸⁶ Attachment 150, Lisa Montgomery statement to Dr. Brian Shane, 5-9-1995.

⁷⁸⁷ Attachment 2, Declaration of Lisa Rickert incorporating Telephone interview with Brett Owens, 6-17-2005.

⁷⁸⁸ *Id.*

⁷⁸⁹ *Id.*

⁷⁹⁰ Attachment 151, Kayla Boman, Jane Phillips Memorial Medical Center, 4-23-1993.

⁷⁹¹ *Id.*

⁷⁹² *Id.*

⁷⁹³ Attachment 104, Attachment Boman v. Boman, District District Court for Washington Co., Oklahoma, No. JFD-93-267.

d. Judy Kidnapped Lisa's Children the First Time.

Custody battles figured prominently in Lisa's family life and often served as the centerpiece around which other family disputes swirled.⁷⁹⁴ After the divorce, Lisa started living with Brett, and Carl took the children on some weekends. During one of Carl's weekends with the children, Carl "took off with the children to California."⁷⁹⁵ Judy conspired with Carl and, without Lisa's permission or knowledge, planned to keep Lisa's children in California.⁷⁹⁶ By this point, Carl "was full of anger" and "afraid of losing the kids."⁷⁹⁷

Lisa and Brett drove to Imperial Beach, California, to find the children and return them to their home, but were unsuccessful and returned to Oklahoma. Back in Oklahoma, Lisa went to the ER with right-sided facial and neck pain, and had an MRI of her brain and brain stem. The results were normal for her spine and "without significant abnormality" for her brain.⁷⁹⁸ Lisa filed for emergency order for custody and was awarded temporary custody of the four children on August 24, 1993, pending the divorce.⁷⁹⁹ It was clear that Judy had no intention of returning the children; she had already enrolled Desiree in the first grade at Bayside School in Imperial Beach and received her immunization for OPV/IPV at the Imperial Beach Clinic.⁸⁰⁰

⁷⁹⁴ Lisa's extended family also battled over custody of children. In 1990, Lisa's aunt Darlene Alexander brought a child custody suit in San Antonio over her granddaughter, Ashley R. Alexander (DOB 2-9-1986), born to her son Kenny Alexander and his wife, Kimberly Alexander. Darlene wanted custody of the four year old after Kenny and Kimberly divorced. (Attachment 153, In the Matter of the Marriage of Kenneth D. Alexander and Kimberly A. Alexander, Bandera County, Texas, 216th Judicial District, Case No. 4767-89, Decree of Divorce, 6-7-1990.)

⁷⁹⁵ Attachment 2, Declaration of Lisa Rickert, incorporating telephone interview with Brett Owens, 6-17-2005.

⁷⁹⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Tommy Kleiner, 3-9-[2005].

⁷⁹⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁷⁹⁸ Attachment 154, Lisa Montgomery, Jane Phillips Memorial Medical Center, Radiology Report, 7-15-1993.

⁷⁹⁹ Attachment 2, Declaration of Lisa Rickert incorporating telephone interview with Brett Owens, 6-17-2005; Attachment 104, Boman v. Boman, District Court for Washington Co., Oklahoma, No. JFD-93-267.

⁸⁰⁰ Attachment 144, Desiree Boman, Deming School Records, 1-11-1987; Attachment 155, Bayside School Records, 8-12-1993.

Judy listed herself as Desiree's guardian and her address as 627 13th Street, apartment 25, San Diego.⁸⁰¹ Judy had a full house and listed a total of six children living in her home: Tommy, Patty, and Lisa's four children.⁸⁰²

Lisa and Brett returned to California to get the children. When Lisa and Brett arrived in California, Tommy "jumped on Lisa."⁸⁰³ They found the children with Judy and her then husband Richard Boman in a church surrounded by church members who helped Lisa's family flee out the back door.⁸⁰⁴ Judy "took off" with Lisa's children to Judy's sister's Darlene in San Antonio, Texas.⁸⁰⁵ Lisa cried and shouted, "those are my kids," but to no avail.⁸⁰⁶ Judy took Lisa's children to Texas, and Lisa returned to Oklahoma.⁸⁰⁷ Lisa and Carl's divorce was finalized September 29, 1993, with joint custody granted to Lisa and Carl. Carl was ordered to pay child support.⁸⁰⁸

Lisa went to the ER with a headache, nausea, and dizziness, and reported she had the headache since her automobile accident in June, 1993. Lisa had been taking Pamelor (noritriptyline) for depression but had stopped.

Lisa enrolled in Tulsa Community College and took one class, Introduction to Sociology, and received a B. She was a nursing applicant.⁸⁰⁹ Desiree attended first grade in Dewey public school from November 29, 1993, until February 7, 1994.⁸¹⁰ Lisa earned \$1,000 from self-employment.⁸¹¹

⁸⁰¹ Attachment 155, Desiree Boman, Bayside School Records, 8-12-1993.

⁸⁰² Id.

⁸⁰³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Tommy Kleiner, 3-9-[2005].

⁸⁰⁴ Attachment 2, Declaration of Lisa Rickert incorporating telephone interview with Brett Owens, 6-17-2005.

⁸⁰⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Tommy Kleiner 3-9-[2005].

⁸⁰⁶ Attachment 2, Declaration of Lisa Rickert incorporating telephone interview with Brett Owens, 6-17-2005.

⁸⁰⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Tommy Kleiner, 3-9-[2005].

⁸⁰⁸ Attachment 104, Boman v. Boman, District Court for Washington Co., Oklahoma, No. JFD-93-267.

⁸⁰⁹ Attachment 156, Lisa Montgomery, Tulsa Community College, Fall, 1993.

⁸¹⁰ Attachment 157, Desiree Boman, Dewey Public School Records.

⁸¹¹ Attachment 120, Lisa Montgomery, Social Security Itemized Statement of Earnings.

Brett “planned on marrying” Lisa, but in December 1993, Lisa, in another precipitous action, took the children and went back to Carl.⁸¹² Lisa explained to Brett she was afraid she would lose custody of her children unless she returned to Carl because her family was going to testify against her. Brett was very hurt when she left him, and he never saw Lisa after December 1993.⁸¹³ She returned to Carl.⁸¹⁴

Lisa’s return to Carl must be seen against a backdrop of his and Judy’s continuing threat to remove Lisa’s children from her custody. Lisa, damaged and disabled as she was, believed she would lose any court battle for custody. Carl agreed to let her return to him, and one implied condition was that she accept his increased violence against her. With no options, Lisa returned to increased violence during sexual assaults by Carl. Increased violence was ameliorated at first by the new life they found in Arkansas.

e. Arkansas and the First False Pregnancy (1994)

Carl and Lisa tried to move away from family and neighbors who knew their shortcomings. They moved to Springdale, Arkansas, in February, 1994.⁸¹⁵ They lived at 815 Mill Street in Springdale.⁸¹⁶ Missionaries from the Church of Latter Day Saints called upon the family at their home and invited them to attend church services. Lisa and Carl accepted, and for several months Lisa enjoyed a respite. She had community support, and Carl was less violent.

Desiree, back from California and Judy, enrolled in public schools in Springdale for the first grade starting February 23, 1994, and ending June 6, 1994. She received all S’s for grades except in Spelling where she received an N. She was present for 60 out of 65 days. She

⁸¹² Attachment 2, Declaration of Lisa Rickert incorporating telephone interview with Brett Owens, 6-17-2005.

⁸¹³ Id.

⁸¹⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁸¹⁵ Id.

⁸¹⁶ Attachment 158, Chelsea Boman, Springdale Public School Records.

participated in a tutorial reading program from April 7, 1994, to May 27, 1994.⁸¹⁷ Chelsea attended the second semester of kindergarten in Springfield and performed on grade level in all her subjects, but she performed below her age level on the Peabody Picture Vocabulary Test. Chelsea was five years and five months old but performed at the age equivalency level of a four year and one month old child, over a year behind. Desiree and Chelsea were identified as eligible migrant students⁸¹⁸ under Public Law 100-297.⁸¹⁹

Carl and Lisa remarried in a ceremony by a Bishop in the LDS Church June 11, 1994, in Bentonville, Benton County, Arkansas.⁸²⁰ Lisa told people she was pregnant with twins, but “never told Carl.”⁸²¹ Sometimes she told neighbors the babies were Carl’s and sometimes she told them they were Brett’s.⁸²² Lisa “ignored” Carl when he confronted her, and they argued.⁸²³ Judy and Richard moved a few hours away, and Judy came to Arkansas for a surprise visit, saw the crib, and confronted Lisa, and Lisa explained that she miscarried.⁸²⁴ When Judy continued to demand more answers, Lisa seemed to ignore her.⁸²⁵ Lisa was out of touch with reality. Lisa and Carl’s life was disrupted by Judy, by the false pregnancy, and by Lisa’s inability to keep up with parenting demands.

⁸¹⁷ Attachment 159, Desiree Boman, Springdale Public School Records.

⁸¹⁸ Attachment 158, Chelsea Boman, Springdale Public School Records; Attachment 159, Desiree Boman, Springdale Public School Records.

⁸¹⁹ Public Law 100-297 Migrant/Chapter I allowed local school boards to identify the especial educational needs of migratory children in the district with sufficient specificity to maintain or enhance educational performances including supporting service which may be necessary to enable eligible children to participate effectively in instructional services.

⁸²⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005; Attachment 152, Boman v. Boman, Sixth Judicial Dist. Court, Co. of Luna, NM, No. DM-0098-000-102; Marriage License, Benton County, Arkansas, 6-10-1994.

⁸²¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁸²² Id.; see also, Attachment 160, FBI 302 Interview with Carl Boman, 1-24-2005.

⁸²³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁸²⁴ Id.; Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy, 3-14-2005.

⁸²⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy, 3-14-2005.

In August, 1994, Carl returned to Bartlesville, Oklahoma, first, and was soon followed by Lisa and the children. The whole group lived with Carl's mother Lucy Bayle for the next year. Lisa worked part time as a caregiver for a homebound woman, Tawny McLeod, who shot herself in the head but lived.⁸²⁶ Lisa visited with Jan, Tawny's husband, and he became aware that Lisa was "a young woman who was trapped in a marriage with four children and who needed opportunities to get away."⁸²⁷ Living with her in-laws afforded her "very little privacy."⁸²⁸

It seemed to Jan McLeod that Lisa's in-laws "didn't like Lisa very much," blamed Lisa for the couple's problems, and encouraged Carl to leave Lisa.⁸²⁹ Jan learned from Carl that both Carl and Lisa had sexual relationships with other people.⁸³⁰ When Jan knew Carl, Carl did not "work a lot."⁸³¹

Tawny noted that "Lisa talked on the phone" a lot while sitting with Tawny, "tended to control the conversations," and talked about herself and her problems.⁸³² She was "warm, outgoing, and friendly." Jan liked Lisa but recognized that "some of the things Lisa liked to do or wanted to do seemed like an escape."⁸³³ Lisa's plans were not realistic. Lisa liked music although she didn't play an instrument. Jan liked the way Lisa spoke her mind. Ninety percent of the time she talked about her children and spoke of them in a positive way. The children always appeared well dressed and well groomed.⁸³⁴

In the summer of 1994, Lisa, Carl and all the kids "came driving up" to the Upshaws, who had not heard from the Bomans since 1991 or 1992, in a Melody Ice Cream truck for a

⁸²⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Jan McLeod, 7-5-2005.

⁸²⁷ Id.

⁸²⁸ Id.

⁸²⁹ Id.

⁸³⁰ Id.

⁸³¹ Id.

⁸³² Id.

⁸³³ Id.

⁸³⁴ Id.

“fairly brief visit.”⁸³⁵ Lisa and Carl discussed their plans to move to New Mexico. Carl also asked James Upshaw if “Gerald Upshaw could be C.J.’s father,” and James told him, “No.”⁸³⁶ Despite her tumultuous life, the Upshaws saw Lisa as “a kind, generous person. She took people in the community to the store if they needed a ride. She took care of Lonnie, the older man in Ponca City.”⁸³⁷

In the 1994-1995 school year, Desiree attended second grade at Jane Phillips School in Bartlesville, Oklahoma. Desiree told teachers she had “trouble reading – but was very willing” to learn, and she improved significantly during the school year.⁸³⁸ A September 8, 1994 IRI⁸³⁹ summary of her reading ability rated her reading fluency as slow and in the low range. Phonics were “not making sense” to her.⁸⁴⁰ On the same test, administered eight months later, Desiree read in the high range and “enjoy[ed] reading.”⁸⁴¹ In March, 1995, she took the Iowa Tests of Basic Skills and scored in the average range in vocabulary (46), listening (45) and math concepts (66) and in the high range in math problems (81), social studies (71), and sources of information (92). Desiree received all S’s in her subjects except for an S- in reading.

In March, 1995, Chelsea was in the first grade at Jane Phillips School in Bartlesville, Oklahoma, where she took the Iowa Tests of Basic Skills. She received low percentile rankings in language advanced skills (14%) and math advanced skills (5%). She perceived an average percentile ranking in reading advanced skills (44%).⁸⁴²

⁸³⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Roberta and James Upshaw, 7-13-2005.

⁸³⁶ Id.

⁸³⁷ Id.

⁸³⁸ Attachment 253, Desiree Boman, Jane Phillips School Records, second grade.

⁸³⁹ The Informal Reading Inventory (IRI) is an individually administered survey designed to help teachers determine a student's reading instructional needs.

⁸⁴⁰ Attachment 253, Desiree Boman, Jane Phillips School Records, second grade.

⁸⁴¹ Id.

⁸⁴² Attachment 176, Chelsea Boman, William Magnet School Records, Topeka, KS.

On May 9, 1995, Lisa went to a physician for neck pain and right sided headaches. She had headaches once to twice a week. Lisa explained to the physician that her neck pain started two or three years earlier after a car accident in June 1993.⁸⁴³

f. Denning, NM (1995)

Judy and Richard lived in New Mexico, and Lisa and Carl decided to move to Deming, New Mexico. Although Judy encouraged Lisa and Carl to move to New Mexico, Judy also expressed her irritation that Lisa followed Judy. Judy reported that Lisa followed her to “tantalize me.”⁸⁴⁴ In New Mexico, Lisa, Carl and the children lived in a small cramped trailer with no electricity. They “got to live there free though, because mom knew the people who owned it.”⁸⁴⁵

In the fall of 1995, Kayla entered kindergarten in Deming Elementary School; Chelsea entered the second grade and received mostly A’s; and Desiree entered the third grade and received A’s.⁸⁴⁶ Kayla received S’s in all her subjects except in Science Health, where she received an S-.⁸⁴⁷ As would be the case for Kayla and all her siblings, Lisa struggled to keep their immunizations up to date. When Lisa enrolled the children in Deming, she worked at Deming Headlight, and Carl – along with Judy – worked at Deming Home Center.⁸⁴⁸

Although Chelsea received A’s and S’s in the second grade during the 1995-1996 school year, she performed below average in the second grade on standardized testing as measured by the Iowa Tests of Basic Skills. She received low percentile rankings in language total (25%) and

⁸⁴³ Attachment 162, Lisa Montgomery, Medical Records.

⁸⁴⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy, 3-14-2005.

⁸⁴⁵ Attachment 79, Declaration of Chelsea Boman Veal.

⁸⁴⁶ Attachment 163, Chelsea Boman, Deming Public Schools, 1995-1996 and 1996-1997; Attachment 164, Kayla Boman, Deming Public School Records; Attachment 144, Desiree Boman, Deming Public School Records.

⁸⁴⁷ Attachment 164, Kayla Boman, Deming Public School Records.

⁸⁴⁸ Attachment 164, Kayla Boman, Deming Public School Records; Attachment 144, Desiree Boman, Deming Public School Records.

math total (25%). She perceived low average percentile rankings in language advanced skills (32%) and math advanced skills (28%). Her highest percentile ranking was in reading (54%).⁸⁴⁹ Desire took the Iowa Tests of Basic Skills in March, 1996, in the third grade at Sunshine Elementary School in Deming. She tested low in national percentile ranking language usage and expression and punctuation (22) and in reference materials (23). She tested average in all other areas, with her highest score in math computation (70), math concepts and estimation (74), and math problems and data interpretation (73).⁸⁵⁰

In 1996, Lisa earned \$4500 from Worldwest and \$700 from another company, the highest amount she had ever earned in a year.⁸⁵¹ Their family initially lived in an “old house.”⁸⁵²

In the spring of 1996, Lisa, Carl, and the children move into a one bedroom trailer. On June 19, 1996, during a visit to Bartlesville, Oklahoma, Lisa took five year old Kayla to the ER for a rash around her neck that itched badly. She was treated with Benadryl and steroids and released.⁸⁵³

When Lisa began working, she “met some people who drank a lot and were also promiscuous.”⁸⁵⁴ Tommy lived with Lisa when she lived in Deming, New Mexico. Carl was never home and worked three jobs. Lisa lived in a little camper trailer on Judy’s property that was “nasty” and barely had room for Lisa’s children, much less Tommy, Lisa, and Carl.⁸⁵⁵ The family was extremely impoverished, and they had “no food.”⁸⁵⁶ Tommy “sold drugs to get the kids food” and “lived in the street or in [his] car.”⁸⁵⁷ Carl took off for “months at a time” leaving

⁸⁴⁹ Attachment 163, Chelsea Boman, Deming Public Schools, 1995-1996 and 1996-1997

⁸⁵⁰ Attachment 165, Desiree Boman, Sunshine Elementary School records.

⁸⁵¹ Attachment 120, Lisa Montgomery, Social Security Itemized Statement of Earnings.

⁸⁵² Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁸⁵³ Attachment 166, Kayla Boman, Jane Phillips Memorial Medical Center, 6-19-1996.

⁸⁵⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁸⁵⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Tommy Kleiner, 3-9-[2005].

⁸⁵⁶ Id.

⁸⁵⁷ Id.

Lisa in a small trailer with the kids and “not enough food or water.”⁸⁵⁸ Judy and Richard’s marriage ended.

Lisa did whatever it took to keep going without financial support from Carl and without the ability to work on her own with the children. She prostituted herself not, she claimed for money, but for food for her children.

The children described these desperate times. Lisa “never seemed to have enough money to feed” all the children, and they ate “a lot of beans and rice.”⁸⁵⁹ C.J. remembered “being hungry sometimes.”⁸⁶⁰ Lisa’s financial straits combined with mania to make her exuberant and hyper-sexual. She had a lot of friends in Deming. “She knew everyone.”⁸⁶¹ Lisa and Carl’s marriage was not good in Deming. “Lisa was always kissing other guys.”⁸⁶² Lisa “drank a lot” when they lived in Deming, so much so that Desiree “had to care for Kayla.”⁸⁶³ Strange men came and left the trailer while the children played outside. Lisa asked the men to pay for her services with food, and the men brought food with them for the children. Sometimes, she went to truck stops, met men, had sex with them in their trucks, and brought food home for the children. Later on, she bartered for legal services with her body. Lisa drank excessively.

The children’s school records for the 1996-1997 school year show some decline but surprising ability as well. C.J. started first grade and received S’s in his school work, indicating acceptable progress. He was absent 13 days. C.J. tested as average in national percentile rankings on the Iowa Tests of Basic Skills in vocabulary (66), math (72), and word analysis (74). He scored higher in reading (90) and language (94).⁸⁶⁴ Kayla entered the first grade in Deming

⁸⁵⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain, 7-13-2005.

⁸⁵⁹ Attachment 167, Declaration of Kayla Deanne Boman.

⁸⁶⁰ Attachment 168, Declaration of Carl James (C.J.) Boman II.

⁸⁶¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Tommy Kleiner, 3-9-[2005].

⁸⁶² Id.

⁸⁶³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Desiree Boman, 3-9-2005.

⁸⁶⁴ Attachment 118, C.J. Boman, Deming School Records.

and took the Iowa Tests of Basic Skills. She tested low in national percentile rankings in reading advanced skills (20), listening (15), and word analysis (20). Her highest score was in math (84).⁸⁶⁵

Chelsea's third grade performance for the 1996-1997 school year in Deming public schools declined from the second grade and she received mostly B's and C's. She tested low in national percentile rankings on the Iowa Tests of Basic Skills in vocabulary (21), spelling (41), capitalization (9) and punctuation (16) and low average in reading (44), spelling (41), math concepts (37), social studies (32), science (38), science maps (32), and sources of information. Her highest percentile rankings were in reading comprehension (67) and math computation (65).⁸⁶⁶

Desiree's academic performance declined slightly in the fourth grade and she received B's and C's. Desiree was absent 12 days out of 164 days.⁸⁶⁷ Her scores on the Iowa Tests of Basic Skills were in the low percentile range in language total (24) and in the average range in reading advanced skills (80) and math advanced skills (77).⁸⁶⁸

Lisa earned \$12,000 in 1997 but dropped to \$8,500 in 1998, well below the poverty level.⁸⁶⁹ On June 29, 1998, Lisa filed for divorce from Carl in Luna County, New Mexico; she listed her address as 1706 South Nickel, Deming, New Mexico and was unemployed. Carl's address was 1115 S.E. Adams, Bartlesville, Oklahoma, and he worked at Spears Manufacturing.⁸⁷⁰ The court granted the divorce August 6, 1998, as a default judgment and granted physical care of the children to Lisa with joint custody to Lisa and Carl.

⁸⁶⁵ Attachment 164, Kayla Boman Deming School Records.

⁸⁶⁶ Attachment 163, Chelsea Boman, Deming Public School Records, 1985-1996 and 1996-1997.

⁸⁶⁷ Attachment 144, Desiree Boman, Deming School Records.

⁸⁶⁸ Id.

⁸⁶⁹ The threshold poverty level for a family of five in 1998 was \$19,680. (Poverty in the United States, Table 1. Poverty Thresholds by Size of Family and Number of Related Children, 1998, U.S. Census Bureau, 1999).

⁸⁷⁰ Attachment 152, Boman v. Boman, Sixth Judicial Dist. Court, Co. of Luna, NM, No. DM-0098-000-102.

Even though Lisa's children were doing well in school, she decided on the spur of the moment to withdraw the children from public school and home school them beginning in the fall of 1997. Carl did not anticipate her taking them out of school and had already signed a routine school form for Desiree dated August 21, 1997. Desiree attended the first six weeks of the fifth grade for the 1997-1998 school year, received an A, B+'s, a C, and S's. She was present all 31 days of the six week session.⁸⁷¹ Chelsea figured the real reason Lisa decided to home school the children was because Lisa "couldn't get rid of Desiree's head lice, so she took us all out of school."⁸⁷² Lisa was not able to organize, track, and teach lessons from week to week. She "got some used books" but "they were for younger grades."⁸⁷³ Lisa did not arrange for the children to participate in other home school group activities either. The children ended up falling "way behind."⁸⁷⁴

g. Leaving New Mexico without Carl

The children went back and forth between Carl and Lisa in 1998. At first, Carl and Lisa agreed to divide the children between them. Lisa kept Kayla and Desi in New Mexico, and Carl took C.J. and Chelsea to Oklahoma for a short while. In May 1998, C.J. and Chelsea returned to New Mexico to be with Lisa and the other two children. Judy, this time in cahoots with her sister Alice, went to New Mexico and convinced Lisa to move to Topeka to be close to family. Lisa obeyed. She quit her job, took the children to Carl in Oklahoma, and went to Topeka. In Topeka, she sought out her mother, as Judy had encouraged her to do, but Lisa's mother was nowhere to be found. Lisa was alone and penniless and moved in with a man she met on the street.

⁸⁷¹ Attachment 144, Desiree Boman, Deming School Records.

⁸⁷² Attachment 79, Declaration of Chelsea Boman Veal.

⁸⁷³ Id.

⁸⁷⁴ Id.

Lisa found a job at Wells Fargo and went to Oklahoma to pick up the children from Carl. She returned to Topeka with the children and asked Hector Ochoa to let her and the children live with him and his family in their trailer. Hector was Judy's fifth husband, but they were separated. Hector allowed Lisa and the children to move in, but it was not a safe place. Hector, an alcoholic, made Chelsea "go into the bedroom with him" and "forced [her] to have sex with him."⁸⁷⁵ Judy reentered Lisa's life with threats of taking the children. Lisa took the children to Carl's home and moved to Bartlesville to be closer to the children.

h. Meeting and Marrying Kevin: More Violent Sex and More False Pregnancies

Lisa met 38 year old Kevin Montgomery⁸⁷⁶ in the fall 1998 while he worked for Essex Company in Topeka, Kansas. Kevin lived in Melvern, Kansas, where his parents, Roger and Joy Montgomery, reared him and his brother⁸⁷⁷ and came from a religious family.⁸⁷⁸ He was a "skilled laborer who graduated from the Vocational-Technical School."⁸⁷⁹ He was "nice, respectful."⁸⁸⁰ Kevin had three children, Derrick, Dustin, and Dylan,⁸⁸¹ who lived with their mother, Lori Montgomery.⁸⁸² Kevin's parents liked Lisa when they met her and thought she was "nice," "cute," "polite."⁸⁸³

Kevin and Lisa were both embroiled in contentious divorce proceedings before they met. Lisa filed for divorce from Carl Boman June 19, 1998, which was entered as a default judgment

⁸⁷⁵ Id.

⁸⁷⁶ Attachment 172, Kevin Montgomery, St. Francis Hospital, 6-24-2001

⁸⁷⁷ Id. Kevin's brother died of AIDS in 1987.

⁸⁷⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview of Isabel Phelon, 3-9-2005.

⁸⁷⁹ Attachment 173, Montgomery v Montgomery, Osage Co. KS Case No. 97D-192.

⁸⁸⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview of Tommy Kleiner, 3-9-[2005].

⁸⁸¹ Attachment 173, Montgomery v. Montgomery, Osage Co. KS Case No. 97D-192, showing dates of birth of the three sons: Derrick (DOB 1985); Dustin (DOB 1990); and Dylan, (DOB 1992).

⁸⁸² Id.; Kevin and Lori Montgomery married 4-10-1989, in Melvern, Kansas. Lori filed for divorce 12-3-1997, and the court awarded joint custody. Kevin was ordered to pay temporary child support of \$542/month. An absolute divorce was granted 6-12-1998.

⁸⁸³ Attachment 2, Declaration of Lisa Rickert incorporating interview of Joy and Roger Montgomery, 3-9-2005.

in Deming, New Mexico. Lisa was granted physical care of her four children but joint custody was entered.⁸⁸⁴ Kevin filed a motion to change residential custody from his ex-wife Lori to him after he learned that his ex-wife planned on moving with the children to Osage City, Kansas, which was 20 miles away from Melvern. Kevin argued that his three children “have lived the greatest portion of their lives, attended school, and have significant relatives in Melvern,” including their grandparents, Joy and Roger Montgomery.⁸⁸⁵ The court denied Kevin’s request to change residential custody October 14, 1998.

In the fall of 1998, Lisa worked as a security guard and talked with Kevin when she made her rounds. Lisa “was always pleasant.”⁸⁸⁶ Kevin’s co-workers “pushed Lisa his way,” because he was newly divorced and Lisa was single also.⁸⁸⁷

Kevin took Lisa to breakfast for their first date. Kevin could not afford “a nice date,” and he was impressed that Lisa did not seem to mind and was appreciative of the breakfast.⁸⁸⁸ Dating Lisa involved seeing her on the weekends and usually involved her children and his.⁸⁸⁹ Lisa and Kevin’s “courtship” always involved the children. They camped and went to local festivals.⁸⁹⁰ They camped, went to ball games, and did things that did not require a lot of money. Lisa always wanted to do things like go to the library or museums, but her plans were often interrupted by her severe migraines. The migraines occurred “a couple of times a month”⁸⁹¹ and “knocked her to the floor. She could not do anything – anything at all. She could not get out of bed, talk, eat, or read.”⁸⁹²

⁸⁸⁴ Attachment 152, Boman v. Boman, Sixth Judicial Dist. Court, Co. of Luna, NM, No. DM-0098-000-102.

⁸⁸⁵ Attachment 173, Montgomery v. Montgomery, Osage Co. KS Case No. 97D-192.

⁸⁸⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview of Kevin Montgomery, 7-28-2005.

⁸⁸⁷ Id.

⁸⁸⁸ Id.

⁸⁸⁹ Id.

⁸⁹⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 3-9-2005.

⁸⁹¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

⁸⁹² Attachment 174, Declaration of Kevin Montgomery.

As Kevin spent more time with Lisa, he learned more about the serious problems that plagued her family. Lisa's mother had been married many times; Lisa's sister Jerri Jo and her husband were separating in California, as was Patty in Ohio; and Lisa's brothers Tommy and Teddy were using drugs. Kevin also learned that Jack Kleiner, one of Lisa's stepfathers, had sexually assaulted her for years. Lisa told Kevin that she had a baby, Judy took the baby away from her, and Judy placed Lisa's baby up for adoption. Lisa "spent a lot of time on the computer searching for this baby."⁸⁹³ Kevin considered everything Lisa did and everything he learned about her family as reasons for him "to rescue her" and to give her a better life.⁸⁹⁴

Kevin's parents had "reservations" about Kevin and Lisa marrying.⁸⁹⁵ They didn't know anything about Lisa, her family, or much about her previous marriage and divorce, other than that Carl did not pay child support.⁸⁹⁶ They thought that blending the families "was going to cause problems."⁸⁹⁷ Kevin's ex-wife, Lori, caused problems for Lisa and Kevin.⁸⁹⁸

Lisa's family and friends wrongly attributed her dramatic mood swings to changes in her circumstances, and did not understand it was more likely her mood changes reflected her underlying mental disorder. Lisa "seemed very happy and enthused" about her new relationship with Kevin Montgomery in the summer of 1998 when she stopped by a friend's house.⁸⁹⁹ Lisa "was all dressed up in a mini skirt and heels."⁹⁰⁰ Lisa had two of her children with her⁹⁰¹, and

⁸⁹³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

⁸⁹⁴ *Id.*, p.2.

⁸⁹⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 3-9-[2005].

⁸⁹⁶ *Id.*

⁸⁹⁷ *Id.*

⁸⁹⁸ *Id.*

⁸⁹⁹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Jan McLeod, 7-5-2005.

⁹⁰⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Jan McLeod, 7-11-2005.

⁹⁰¹ One of the children had a broken arm. (Attachment 2, Declaration of Lisa Rickert incorporating interview with Jan McLeod 7-5-2005).

her other two children were in Kansas with Carl. She asked a former neighbor if he could give her a ride to see her two children in Kansas, but he wasn't able to help her out.⁹⁰²

Lisa's enthusiasm for Kevin waned when he insisted on sexual violence as part of their relationship. She was not surprised that Kevin wanted to hurt her during sex because she had come to expect nothing less; she thought it was part of maintaining a relationship with a man. Kevin, she was quick to point out, was not as violent or hurtful as Carl, but he bruised her, used a horse whip on her, and tied her in forced stress positions. Kevin liked to go to the woods or barn to tie her up, and used clamps on her nipples. She did not seek or want the maltreatment, did not enjoy it, and did not know that forced and coerced sexual intercourse during marriage was considered a sexual assault. Instead of protesting, her mind simply went somewhere else as it had in such situations since she was a child.

The children jumped from school to school in the fall of 1998 as they followed Lisa and Carl's unpredictable reunions and separations. Desiree transferred to Eisenhower School in Topeka on September 9, 1998, but stopped going to Eisenhower November 18, 1998. She left without returning a violin, for which she was charged \$225. It appears that Lisa did not formally withdraw Desiree from school, and that school officials incorrectly attributed Desiree's absence after November 28, 1998, to truancy.⁹⁰³ Chelsea attended the fifth grade at Williams Elementary in Topeka for six weeks from September 9, 1998, to October 26, 1998. She received C's in all her subjects, missed nine days of school and attended 25 days of school. Her home address was 1949 Adams in Topeka. She left Williams in Topeka October 26, 1998, to attend Richard Kane Elementary School in Bartlesville.⁹⁰⁴

⁹⁰² Attachment 2, Declaration of Lisa Rickert incorporating interview with Jan McLeod, 7-5-2005.

⁹⁰³ Attachment 175, Desiree Boman, Topeka School Records.

⁹⁰⁴ Attachment 176, Chelsea Boman, William Magnet School Records, Topeka, KS.

Shortly after Lisa returned from New Mexico, Lisa moved the children to Bartlesville so Carl could put them in school. Lisa moved a couple houses to a small efficiency away from Carl to be closer to her children, but she knew she was not able to keep up with their needs.

Carl and Lisa continued to be involved in each other's lives, not just as parents, but also at work. Carl helped Lisa obtain a job as a line cutter for Spears Manufacturing in December, 1998, and Carl was her supervisor.⁹⁰⁵ Lisa was in another car accident January 18, 1999, when her car was struck by a moving truck. She was the unrestrained driver. She had a laceration to the top of her left parietal area, a sore throat, and no loss of consciousness. Desiree was also in the car, unrestrained, and hit the windshield.

The children started the school year in Bartlesville in the second quarter (nine week sessions) of the 1998-1999 school year. C.J. received enthusiastic comments from his fourth grade teacher who found him to be a "dependable and self-directed student" who loved "to help others."⁹⁰⁶ He had "some problems keeping his work done" in the third quarter, but by the fourth quarter his teacher was "very impressed with [his] ability to perceive the meaning of a story and share his insights."⁹⁰⁷ C.J.'s scores on the Iowa Test of Basic Skills were mostly in the average range and consistent with his scores in kindergarten with the exception of particularly high scores in language problems and data interpretation (96 %) and science maps and diagrams (96 %), and science references materials (99%).

Kayla was also in the third grade in the 1998-1999 school year. She started Bartlesville Public Schools October 22, 1998, after transferring in from Williams in Topeka. Her teacher commented that she "really" enjoyed having Kayla in her class.⁹⁰⁸ Kayla completed the third

⁹⁰⁵ Attachment 120, Lisa Montgomery, Social Security Itemized Earning Statement.

⁹⁰⁶ Attachment 177, C.J. Boman, Bartlesville Public School Records.

⁹⁰⁷ Id.

⁹⁰⁸ Attachment 178, Kayla Boman, Bartlesville Public School Records.

grade and continued to receive favorable comments by her teacher who encouraged Kayla to “work on her spelling.”⁹⁰⁹ In the final nine week session, Kayla missed 13 of the 46 days.⁹¹⁰ Lisa lived at 1115 S.E. Adams, # 7, in Bartlesville on January 16, 1999, when she rushed Kayla to the ER after Kayla “got her (l) ring finger caught between 2 cinder blocks.”⁹¹¹ She was diagnosed with a closed fracture on her ring finger and injury to her little finger. Kayla was transferred to Shawnee Mission Medical Center for treatment.⁹¹²

Lisa held her job at Spears, where Carl supervised her, until April, 1999, and earned \$4,400.⁹¹³ Lisa was injured at work and filed a Worker’s Compensation claim March 30, 1999, for repetitive motion injury to her right wrist.⁹¹⁴ Around 1999, Tommy was living in an apartment in Topeka and selling meth. Lisa and Desiree drove to Topeka to get him to help him get off drugs.

By 1999, Kevin “noticed that something wasn’t quite right” with Lisa.⁹¹⁵ She was “sick, run down, worried,” and told him she was pregnant with twins, Kevin’s first experience with Lisa’s false pregnancies. Although he did not consider ending the relationship, he was not happy about the pregnancy as he did not believe in having children outside of marriage. Lisa announced she was going to New Mexico to have an abortion. Kevin asked Lisa if she was sure about having an abortion, and she was. Lisa told Kevin she flew to New Mexico for the abortion and returned “in pain, wore out, and not relieved.”⁹¹⁶ Lisa’s siblings reported she used the

⁹⁰⁹ Id.

⁹¹⁰ Id.

⁹¹¹ Attachment 179, Kayla Boman, Stormont-Vail Regional Health Center Records, 1-16-1999.

⁹¹² Id.

⁹¹³ Attachment 120, Lisa Montgomery, Social Security Itemized Earning Statement.

⁹¹⁴ Attachment 180, Lisa Montgomery, Kansas Dept. of Labor Workers Compensation Claim, 3-30-1999.

⁹¹⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

⁹¹⁶ Id.

money to go to New Mexico and renew a relationship with a former boyfriend. During the trip, she wrote several checks that were returned for insufficient funds.⁹¹⁷

On June 20, 1999, Lisa was hit by a child's knee on a trampoline. Lisa did not lose consciousness but became repetitive, confused and disoriented. At the ER, she was somewhat disoriented as to time and place, and was not able to relate her phone number or do simple calculations. She was given Demerol and Phenergan and a prescription for Loritab. A few days later Lisa returned to the hospital for her headache. She had run out of Loritab. She had a severe headache with photophobia, nausea and vomiting. She was given Compazine orally.⁹¹⁸

Kevin drove about three hours to see Lisa on his days off. Six months later, Lisa told Kevin she was pregnant again and was going "to take care of it" by brewing and drinking a concoction of Penny Royal leaves over a couple of months. She told Kevin the concoction was successful and she had miscarried. Kevin was upset and "had mixed feelings."⁹¹⁹ He didn't approve of abortions but they could not afford another child and were not married.⁹²⁰

In 1999, Lisa became convinced she had given birth to a baby named Sarah. Judy took her baby from her a long time ago, and her family "hid the baby from her."⁹²¹ She discovered the baby was alive and wrote a letter to Kevin about it. Judy "found" the letter, took it and kept it. Judy did not tell Lisa she had the letter.⁹²² Lisa later tried to explain away the letter by describing it as a creative writing exercise.⁹²³

⁹¹⁷ Attachment 181, FBI 302 Interview with Teddy Kleiner, 1-12-2005.

⁹¹⁸ Attachment 182, Lisa Montgomery, Stormont Vail Regional Health Center, 6-25-1999.

⁹¹⁹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

⁹²⁰ Id.

⁹²¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy, 3-14-2005.

⁹²² Id.

⁹²³ Attachment 232, Letter to Kevin from Lisa referring to Baby Sarah.

Judy was granted a divorce, uncontested, from her fifth husband Hector Ochoa December 8, 1999, and promptly married Danny Lee Shaughnessy five weeks later on January 14, 2000, in Miami, Oklahoma.⁹²⁴

Kayla withdrew from the fourth grade at Kane Elementary School in Bartlesville December 22, 1999.⁹²⁵ Her teacher commented that Kayla was “a sweet girl” who tended “to be very shy and quiet.”⁹²⁶

i. Blended Family (2000)

Lisa and Kevin married March 23, 2000, in the Burlington, Kansas, courthouse in front of Judge Fromme, who forgot he had a wedding and was late.⁹²⁷ All their children were present, along with Kevin’s parents and Kevin’s aunt and uncle. Only one friend was present for Lisa besides her children.⁹²⁸ Judy held a “get-together” at her home in honor of Lisa and Kevin’s wedding after the wedding day, but Lisa’s family ruined it with family bickering and arguing.⁹²⁹ Lisa and Kevin left early to avoid the trouble.⁹³⁰ Kevin’s parents, Joy and Roger Montgomery, did not stay long, because there were problems and everyone left. Joy and Roger learned through uncomfortable experience that “[t]here were always problems when they were all together.”⁹³¹

The family finances were tight, and Kevin entrusted Lisa to manage the budget, a responsibility that far exceeded her ability to hold her impulses in check. It turned into a

⁹²⁴ Attachment 43, Ochoa v. Ochoa, District Court, Shawnee County, KS, No. 99D-2108; Attachment 183, Danny Lee Shaughnessy and Judy K. Ochoa, Marriage Record No. 112-B, Quapaw, Oklahoma, 1-18-2000.

⁹²⁵ Attachment 178, Kayla Boman, Bartlesville School Records.

⁹²⁶ *Id.*

⁹²⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005; Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 3-9-2005.

⁹²⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

⁹²⁹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 3-9-2005.

⁹³⁰ *Id.*

⁹³¹ *Id.*

catastrophe as the family plunged further and further into debt, fell behind in taxes, and was unable to provide the daily needs of their children. Carl Boman did not respond to summons nor attend court hearings on child support for his four children, and the court ordered him to pay child support in the amount of \$388/month on November 1, 2000.⁹³² Two weeks later, on November 14, 2000, Carl's income was garnished to pay child support and the court increased the monthly amount to \$438.⁹³³ In 2000, Lisa earned \$6700 from Greyhound and \$3000 from Cedar Valley Investments.⁹³⁴ Kevin earned \$6,500 from Essex, \$13,000 from Shelley Electric, and \$2,000 from Capital Electric.⁹³⁵ Their combined income of \$31,500 for their family of six minus \$7,200 for child support left them \$24,300 annually for all their expenses. Lisa and Kevin worked two and three jobs each, but their income after child support hovered right at the poverty threshold level of \$23,533 for a family of six.⁹³⁶

At first, Lisa and Kevin and Lisa's children lived in Melvern, Kansas, at 187 East 329th Street. The disarray in Lisa's home was suggested in the family's medical records: C.J. continued to have chronic problems with rashes and asthma. He went to the hospital March 26, 2000, three days after Lisa married Kevin, for a rash and hives after going fishing.⁹³⁷ On June 12, 2000, Lisa took Chelsea to the emergency room at 10:00 p.m. for diarrhea and abdominal pain for three days. Lisa "refused straight Cath UA" so nursing staff obtained a clean catch urine analysis. Doctors diagnosed Chelsea with gastroenteritis and discharged her home.⁹³⁸ Desiree, who by all accounts took care of the children and household, was taken to the hospital for a

⁹³² Attachment 184, State of Kansas, ex rel v. Boman, District Court of Osage County, Kansas, Case #00D157.

⁹³³ *Id.*

⁹³⁴ Attachment 120, Lisa Montgomery, Social Security Itemized Income Statement.

⁹³⁵ Attachment 185, Kevin Montgomery, Social Security Itemized Income Statement.

⁹³⁶ 2000 HHS Poverty Guidelines.

⁹³⁷ Attachment 186, C.J. Boman, St. Francis Hospital, 3-24-2000.

⁹³⁸ Attachment 187, Chelsea Boman, St. Francis Hospital, 6-12-2000.

fractured phalanx of the second digit (toe). The fracture line was not well defined suggesting it might have been “of some duration.”⁹³⁹

Lisa went to the hospital ten days later on May 16, 2000, for wrist and hand pain from using a hydraulic cutter at Spears Manufacturing. Carpel tunnel testing on the right was abnormal (nerve flexion problems) and the right side dynameter was also abnormal. The diagnosis was uncertain.⁹⁴⁰ Lisa changed jobs and began working at Greyhound. On June 12, 2000, Chelsea went to the hospital for diarrhea, shortness of breath, vertigo, and ear ache.⁹⁴¹ On August 30, 2000, 13 year old Desiree returned to the doctor for a 3 cm. laceration on her right hand, the result of her getting a chicken out of the cage. She arrived at the ER at 10:46 p.m.⁹⁴²

Kevin’s former wife Lori was concerned about the conditions at Kevin and Lisa’s home, so much so that she did not follow through with joint custody arrangements. In the summer of 2000, Lori initially agreed to let Kevin have Dustin and Dylan for the entire month of July, but after ten days, Lori took the children back.⁹⁴³

j. 2001: Basic Tasks Elude Lisa.

Lisa panicked that she was unable to do all that was required of her. Living in town was too complicated, as was getting the children back and forth to school, sports, and after school activities. She had learned to live in isolated areas in New Mexico where less was expected of her, and where she thought life was “simple.” She and Kevin decided to rent a large farmhouse⁹⁴⁴ on October 1, 2001, for \$400 a month. It was “a two story old farmhouse in need of paint, flooring, and window repair.”⁹⁴⁵ Lisa appeared to be a hard worker, as did Kevin, to the

⁹³⁹ Attachment 188, Desiree Boman, St. Francis Hospital, 5-5-2000.

⁹⁴⁰ Attachment 189, Lisa Montgomery, Lawrence Memorial Hospital, 5-16-2000.

⁹⁴¹ Attachment 187, Chelsea Boman, St. Francis Hospital and Medical Center Records, 6-12-2000.

⁹⁴² Attachment 192, Desiree Boman, Coffey County Hospital Medical Records, 8-30-2000.

⁹⁴³ Attachment 173, Montgomery v. Montgomery, District Ct of Osage Co., Kansas, No. 97D-192.

⁹⁴⁴ 32419 S. Adams Road in Melvern, Kansas.

⁹⁴⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Desiree Boman, 3-9-2005.

landlord. Lisa worked for Greyhound, Casey's General Store in Lyndon, Kansas, a filling station on Topeka Boulevard and a Wendy's Restaurant in Melvern.

Lisa tried to plan out how she could become self sustaining on the farm. She diagramed a plot for the garden, but lost track of which plants were which when they started growing outside the neat lines of the diagram. She wanted to can and preserve vegetables, but she was unable to organize a reasonable plan and ended up staying up without sleep for days canning. She bought farm animals – goats, lambs, cows, and chickens – but was not able to figure out how to maintain a feeding schedule. She tried to pass on the responsibilities to her children, and they resented the hard work, early morning hours, and her lack of involvement. Kevin stayed angry with her for not keeping up with activities that he thought were simple, such as grocery shopping, child care, housekeeping, cooking, and laundry. The farm fell into disarray.

Lisa and Kevin continued to have contentious difficult relationships with their ex-spouses around child support payments, custody, and parental visiting. Carl married Vanessa in August 2001.⁹⁴⁶ On June 27, 2001, Kevin's ex-wife petitioned the court for increased child support in light of Kevin's annual income of \$40,932 for his work at Shelley Electric, compared to his ex-wife's annual income of \$18,000. Kevin disagreed that he made \$40,932 annually and asserted his monthly income was \$3328. Kevin petitioned the court for more time visiting his sons and complained that his ex-wife cut short his summer visits. Kevin also asked to pay reduced child support for his children, because he supported Lisa's three children. The court denied Kevin's request to pay less child support and increased his child support monthly payments to \$900.⁹⁴⁷

⁹⁴⁶ Attachment 193, USA v. Montgomery, No. 05-06-002, Vol. 5.

⁹⁴⁷ Attachment 173, Montgomery v. Montgomery, District Ct of Osage Co., Kansas, No. 97D-192.

Kevin saw his children⁹⁴⁸ every other weekend, and his ex-wife alleged that when their children visited Kevin and Lisa's home, they "were required to do farm work and chores and little else" and were "left in the care of Lisa's older daughter."⁹⁴⁹ Lisa's conversations with Carl were frequently about disagreements over child support, visitation, or paying a bill.⁹⁵⁰ Lisa had no friends in the community.⁹⁵¹

Lisa and Kevin talked about having children. She wanted more children, but Kevin thought they had enough but adopted an "if it happened, it happened" attitude.⁹⁵² Lisa could not "talk about problems for very long" and "got a blank look on her face and didn't respond" when Kevin raised concerns.⁹⁵³ She "stayed in her room for days, not talking, leaving or interacting at all."⁹⁵⁴ She spent hour after hour on the computer. She drank, and Kevin argued with her about her drinking. She hid her alcohol, and mixed it with Pepsi. She started but did not finish project after project, and uncompleted projects piled up around the house. Her brother Tommy described the pattern: "she would get really interested in something and spend a lot of time on it and then she wouldn't be interested anymore."⁹⁵⁵

By all accounts, Lisa loved her children dearly, but nonetheless was unable to parent. Lisa had no insight into the harm her psychotic thinking, dissociation, loss of contact with reality, extreme emotions, and rapid, unpredictable mood swings brought her family. Her behavior changed in an instant. On one occasion, as she tried to brush Chelsea's hair, she suddenly hit Chelsea's head with the brush, striking her over and over again, as if she were in a

⁹⁴⁸ Attachment 173, Derek Scott Montgomery, DOB 3-26-1985; Dustin Garrett Montgomery, DOB 8-14-1989; Dylan Kale Montgomery, DOB 1-20-92.

⁹⁴⁹ Attachment 173, *Montgomery v. Montgomery*, District Ct of Osage Co., Kansas, No. 97D-192.

⁹⁵⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview of Kevin Montgomery, 7-28-2005.

⁹⁵¹ *Id.*

⁹⁵² *Id.*

⁹⁵³ Attachment 174, Declaration of Kevin Montgomery.

⁹⁵⁴ *Id.*

⁹⁵⁵ Attachment 41, Declaration of Tommy Lee Kleiner.

trance. She could not teach herself how to brush her girls' hair, help them dress, or prepare for school. At other times, she whipped the children with a belt, in direct contrast to consistent reports she did not discipline or punish the children. She told Kayla that Carl Boman was not her father, and Kayla "hated" her for it.⁹⁵⁶ Carl confirmed that Lisa told Kayla Carl was not her father, but Carl claims that he never doubted his paternity.⁹⁵⁷

Lisa tried very hard to compensate for her outbursts and unpredictability. She was committed to using 'appropriate discipline such as grounding or talking to her children,' but uncontrolled and intense emotions overcame her at times.⁹⁵⁸ Although she "was not overly affectionate," she "expressed her love and gave her children some hugs."⁹⁵⁹ Lisa tried to teach her children "responsibility and gave them choices about chores."⁹⁶⁰

Lisa could not keep up with housework, and her children had to help her with basic chores of cooking and cleaning. The children could not keep up with household chores in the confusing and unpredictable environment Lisa created. Dishes sat unwashed with mold on them.⁹⁶¹ The children came up with a nickname to try and bring their mother out of her trances when she was tuned out.⁹⁶² Instead of calling her "Mom," they called her "Martha." Calling her Martha "became a joke, and way of trying to get her to "tune in to us for a little while."⁹⁶³ Lisa tried to develop positive relationships with Kevin's children, but the oldest, Derrick, "resented Lisa's rules and discipline," while Dylan and Dustin "grew to love Lisa."⁹⁶⁴ Dustin,

⁹⁵⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner, 7-28-2005.

⁹⁵⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl Boman, 4-14-2005.

⁹⁵⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 3-9-2005.

⁹⁵⁹ Id.

⁹⁶⁰ Id.

⁹⁶¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy, 3-14-2005.

⁹⁶² Attachment 167, Declaration of Kayla Deanne Boman.

⁹⁶³ Id.

⁹⁶⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

Kevin's youngest child, had attention deficit problems,⁹⁶⁵ and Lisa never thought Dustin needed to be on medication. Lisa was patient but strict with him. She "took time to explain things to him."⁹⁶⁶

In 2001, Lisa and Kevin earned their highest income during their marriage, but Lisa could not manage their finances. Kevin earned \$29,319 from Shelley Electric and \$9,672 from Flowers Electric.⁹⁶⁷ Lisa earned \$4,650 from Greyhound and \$12,197 from Cedar Valley Investments. The couple had a total annual income – before child support payments to Lori Montgomery – of \$55,838.00. Debtors filed suit against Lisa for unpaid bills.⁹⁶⁸ Who was a member of the household at any given time was unpredictable. Kevin expected to have his sons with Lori, his former wife, with him and Lisa during January, February, March and April, but Lori allowed him to have parenting time only once during those months.⁹⁶⁹ Lisa had severe migraine headaches that immobilized her.

On January 10, 2001, she went to the ER in Topeka for treatment for her throbbing frontal headache with photophobia and vomiting. Physicians sent her home.⁹⁷⁰ After Kevin became ill with gastroenteritis on June 4, 2001, he "failed outpatient management because of his continued inability to take in oral fluids or food" and had to return to the hospital.⁹⁷¹ In August, 2001, Kevin petitioned the court to allow him to have parenting time with Dustin and Dylan every other weekend, Labor Day weekend, the weekend after Thanksgiving, Easter weekend,

⁹⁶⁵ Attachment 173, *Montgomery v. Montgomery* District Ct. of Osage Co., Kansas No. 97D-192, Dustin had many of the features of ADHD. He failed to give close attention to details, made careless mistakes, had difficulty sustaining attention in task or play activities, did not listen when spoken to, did not consistently follow through on instructions, was reluctant to engage in tasks that required sustained effort, lost things necessary for tasks, and was often easily distracted. Mental health services recommended medication management for him.

⁹⁶⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

⁹⁶⁷ Attachment 185, Kevin Montgomery, Social Security Itemized Statement of Earnings.

⁹⁶⁸ Attachment 173, *Montgomery v. Montgomery*, District Ct of Osage Co., Kansas, No. 97D-192.

⁹⁶⁹ *Id.*

⁹⁷⁰ Attachment 194, Lisa Montgomery, St. Francis Hospital and Medical Center, 1-10-2001.

⁹⁷¹ Attachment 190, Kevin Montgomery, St. Francis Hospital and Medical Center Records, 6-6-2001.

July 3 -5 in odd numbered years, New Year's Day, Memorial Day weekend, Thanksgiving Day and Christmas Day in all even numbered years, the first half of spring break in even numbered years, the second half of spring break in odd numbered years, the first half of Christmas break in all even numbered years, the second half of Christmas break in odd numbered years, and summers, starting one week after school was out.⁹⁷² In short order, the court set child support at \$900/month and specific parenting time, including six weeks in the summer. Lori opposed the amount of time the children were to spend with Kevin and Lisa and claimed that Lisa "actively interfered" with Dustin's medical treatment by telling him that taking drugs for ADHD was an excuse for not being able to control him.⁹⁷³ Lori also claimed that her children with Kevin complained that during parenting time with Kevin they were required to do farm work, chores and little else.⁹⁷⁴

In 2001, Carl McClain, Lisa's high school sweetheart, sent Lisa an email and learned Lisa had married Kevin Montgomery.⁹⁷⁵ They renewed their friendship by e-mail and agreed to meet at Yates Center, Kansas, and spend the day together.⁹⁷⁶ Carl McClain's infatuation for Lisa returned, and he began to drive up to Beto Junction, Kansas, twice a week to visit with Lisa while she worked nights at a gas station. They talked about everything.⁹⁷⁷

Lisa told Carl McClain that there "was a lot going on with her" in high school and that her stepfather, Jack Kleiner, had sexually abused her.⁹⁷⁸ Lisa was unhappy in her marriage to Kevin. Kevin "was overbearing and controlling," and the family "had to live by his rules."⁹⁷⁹

⁹⁷² Attachment 173, *Montgomery v. Montgomery*, District Ct of Osage Co., Kansas, No. 97D-192.

⁹⁷³ *Id.*

⁹⁷⁴ *Id.*

⁹⁷⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain, 7-13-2005.

⁹⁷⁶ *Id.*

⁹⁷⁷ *Id.*

⁹⁷⁸ *Id.*

⁹⁷⁹ *Id.*

Lisa's children from her marriage to Carl Boman "had to follow all of [Kevin's] rules."⁹⁸⁰ Lisa wanted to go back to school, but Kevin "made her take care of the house."⁹⁸¹ Lisa and Kevin had "a lot of financial pressures."⁹⁸² Kevin was off work most of the time, and Lisa worked two or three jobs.⁹⁸³ Lisa did not have close friends.⁹⁸⁴ She did not have many friends.⁹⁸⁵ She kept in touch with few friends from school.⁹⁸⁶

Carl McClain and Kevin went fishing together, and Carl McClain told Kevin he had feelings for Lisa, but that "nothing would ever happen since she was married."⁹⁸⁷ Kevin was "aware" Carl McClain and Lisa "met secretly" in New Mexico.⁹⁸⁸ Kevin complained Lisa spent too much time on the Internet and did not spend their money wisely.⁹⁸⁹

Lisa's co-workers at the gas station thought that Lisa was "eccentric."⁹⁹⁰ She "talked about her goats incessantly," and co-workers called her "goat woman."⁹⁹¹ Lisa came to work "in dirty clothes many times and did not appear clean."⁹⁹² She explained her appearance by telling co-workers that "she had spent the night in the barn with the goats."⁹⁹³

In the 2001-2002 school year, Desiree started the ninth grade at Marais des Cygnes Valley High School in Melvern. She received an A- in Spanish, B's in general science, English, computer applications, algebra 1, and agriculture orientation.⁹⁹⁴ In November 2001, Kayla was in

⁹⁸⁰ Id.

⁹⁸¹ Id.

⁹⁸² Id.

⁹⁸³ Id.

⁹⁸⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 6-2-2005.

⁹⁸⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Jan and Julie McLeod, 7-11-2005.

⁹⁸⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

⁹⁸⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain, 7-13-2005.

⁹⁸⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

⁹⁸⁹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain, 7-13-2005.

⁹⁹⁰ Attachment 30, Ron Ninemire interview of Ron Gieck.

⁹⁹¹ Id.

⁹⁹² Id.

⁹⁹³ Id.

⁹⁹⁴ Attachment 195, Desiree Boman, Marais des Cygnes High School Transcript.

the sixth grade and took the Iowa Tests of Basic Skills. She performed in the high average and high percentile rankings, especially in reading comprehension (88), math concepts (94), math problems (97), and maps and diagrams (95).⁹⁹⁵ Her lowest score was in punctuation (47).⁹⁹⁶

Lisa's cousin, Wendy Treibs with whom Lisa shared a "special bond,"⁹⁹⁷ had tubal ligation reversal surgery at a clinic in Jackson, Tennessee, May 17, 2001.⁹⁹⁸ Lisa was aware Wendy became pregnant after the reversal.⁹⁹⁹

k. 2002: Another False Pregnancy

In 2002, Lisa again told Kevin she believed she was pregnant. Lisa "did not go to the doctor right away," and Kevin figured she knew her own body and knew if she were pregnant or not. When Lisa told Kevin she finally went to the doctor, she gave him the very sad news that the baby "had complications with blood and that her body was rejecting the baby."¹⁰⁰⁰ Kevin believed he observed Lisa's body going "through changes that looked like she was pregnant. Her breasts were larger and tender, her belly got bigger, and her periods stopped."¹⁰⁰¹ At night, as they slept in bed, Lisa often took Kevin's hand and placed it on her belly. Kevin "never questioned whether or not she was pregnant."¹⁰⁰²

As the May 2002 due date for delivery approached, Kevin worried about Lisa and the baby. He "demanded" he and Lisa go to the doctor together, and Lisa and he had a huge fight.¹⁰⁰³ Lisa took off by herself and did not allow Kevin to go with her. Lisa was gone six hours and returned "in so much pain" Kevin had to help her out of the car. Kevin and Lisa had

⁹⁹⁵ Attachment 196, Kayla Boman, Carroll High School Alabama.

⁹⁹⁶ *Id.*

⁹⁹⁷ Attachment 19. Declaration of Wendy Tribes, 2-20-2013.

⁹⁹⁸ *Id.*

⁹⁹⁹ *Id.*

¹⁰⁰⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹⁰⁰¹ *Id.*

¹⁰⁰² *Id.*

¹⁰⁰³ *Id.*

discussed donating the baby to research if it died, and that is what Lisa told him she did. Kevin repeatedly asked Lisa whether or not they could get the baby's ashes. Every time he brought it up it caused an argument, and Lisa threatened to leave him. He stopped asking about the baby's ashes to keep the marriage together.¹⁰⁰⁴

Lisa had a challenging work load to carry for a fully functioning person, but for a person with longstanding impairments with ongoing family problems, it was impossible. Her house was "crowded" and "pretty filthy."¹⁰⁰⁵ Visitors "had to walk through paths in the house because it was so cluttered."¹⁰⁰⁶ She continued to work for Greyhound and earned \$7,639 from the company and \$6,610 from Neighborhood Markets in 2002.¹⁰⁰⁷ Kevin's income dropped notably to \$11,315 from Atlantic Group; \$7292 from Coachman Industries, and \$136 from Reno Holdings for an annual income of \$18,743, less than half what he earned the year before.¹⁰⁰⁸ Their situation was not eased by child support payments from Carl. Carl's wages were garnished to pay child support in the amount of \$2,943.¹⁰⁰⁹ Carl no longer worked at Spear Manufacturing and started work at Zinc Corporation of America April 1, 2002.¹⁰¹⁰

Kevin and his former wife Lori continued to argue about the care his children received, and Lisa joined in the ongoing dispute. Kevin wanted to be in control of his sons' medical care, but, according to Lori, Kevin did not consistently give Dustin his medication during his parenting time.¹⁰¹¹ Dustin's behavior in school was troubling. He was suspended for three days for taking a 12 gauge shotgun shell to school and was disciplined for drawing a picture in school

¹⁰⁰⁴ Id.

¹⁰⁰⁵ Attachment 197, Declaration of Vanita June Boman.

¹⁰⁰⁶ Id.

¹⁰⁰⁷ Attachment 120, Lisa Montgomery, Social Security Itemized Statement of Earnings.

¹⁰⁰⁸ Attachment 185, Kevin Montgomery, Social Security Itemized Statement of Earnings.

¹⁰⁰⁹ Attachment 184, Kansas v. Boman, Osage Co. Case No. 00D-000157.

¹⁰¹⁰ Attachment 127, Carl Boman, OK Worker's Compensation Records; Attachment 128, C.B. Pettigrew, D.O., 1-25-2005.

¹⁰¹¹ Attachment 173, Montgomery v. Montgomery, District Ct. of Osage Co., Kansas, No. 97D-192.

of a stick man shooting another stick man. He was also disciplined for biting another student on the hand.¹⁰¹² Lisa emailed Lori that Lori “never put those boys feelings first, and maybe you don’t realize just how much damage you have done to them.”¹⁰¹³ In April, 2002, Kevin filed a motion for change of custody regarding the residential custody of Dustin and Dylan from Lori to Kevin and Lisa. He also asked the court to decrease child support payments to Lori since he had recently become employed after being unemployed for a substantial period of time.

On April 5, 2002, Lisa completed an information form for marriage counseling for her and Kevin with Dr. Sally Wilkinson.¹⁰¹⁴ Lisa and Kevin participated in six to eight sessions. Lisa came up with the idea of marriage counseling over the issues of “lack of communication” and Kevin’s treatment of her children.¹⁰¹⁵ Kevin was never “sure why they went,” but was “willing to go if Lisa was frustrated with him in any way. He was just there for her.”¹⁰¹⁶ The goals of marriage counseling were that Lisa would show increased ability to compromise with Kevin over parenting and relationship issues and that she would demonstrate emotional resilience and less dysphoria. The therapist concluded that part of the difficulty appeared to do with Kevin’s children from his prior marriage.¹⁰¹⁷

A house full of children required constant attention, and Lisa tried to keep up. On March 12, 2002, Lisa took C.J., Chelsea, and 11 year old Kayla to Dr. Hutchison for KBH¹⁰¹⁸ and school physical examinations. They lived at 32419 South Adams in Melvern.¹⁰¹⁹ C.J. – who had chronic asthma treated with an inhaler -- received his physical for school, and the physician

¹⁰¹² Id.

¹⁰¹³ Attachment 263, Email from Lisa Montgomery to Lori Colwell 2-21-2002.

¹⁰¹⁴ Attachment 199, Notes of Dr. Sallye Wilkinson, 4-5-2002.

¹⁰¹⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹⁰¹⁶ Id.

¹⁰¹⁷ Attachment 199, Notes of Dr. Sallye Wilkinson, 4-5-2002.

¹⁰¹⁸ KAN Be Healthy (KBH) is a Medicaid program for children, teenagers, and young adults 20 years of age or younger.

¹⁰¹⁹ Attachment 200, Kayla Boman, J.Rob Hutchinson, M.D., Physical Exam, 3-12-2002.

noted he previously had pneumonia three times.¹⁰²⁰ Thirteen year old Chelsea had her physical for school on the same day, and her physician noted she too had asthma and required an inhaler. The physician referred Chelsea, Kayla, and C.J. for follow up lead testing.¹⁰²¹ Chelsea's and Kayla's lead level were < 3 and < 10 MCG/DL.¹⁰²² Dr. Hutchison noted that Chelsea and C.J. had asthma and that an old injury to Kayla's finger was not treated, resulting in a mallet finger deformity. Dr. Hutchison reported that "[a]pparently there was some planned treatment at KU Medical Center several years ago but this was not done in follow up."¹⁰²³ Kayla's medical chart noted under birth history that Kayla was born 10 weeks early and weighed three pounds and two ounces.¹⁰²⁴ On August 8, 2002, Desiree sustained an elbow injury when she fell at home trying to sit in a chair and missed the edge. She struck her elbow on the chair. She went to the ER, was examined, and was discharged home with her family and advised to use ice and elevation.¹⁰²⁵

Lisa and Kevin had "few friends as couples," and Lisa did not have close friends.¹⁰²⁶ Lisa attended church sporadically. She "was not enthusiastic" about attending her children's sports functions, but her father in law, Roger Montgomery, shamed her into it. She sat on the bleachers knitting during games.¹⁰²⁷ Lisa always tried to make extra money. She tried to sell her tatting, crocheted items, and goat's milk soap at local crafts fairs, but brought in very little profit. Lisa "loved" attending Apple Fest in Topeka, Kansas, in costume.¹⁰²⁸ She made prairie costumes for herself and her daughters with long dresses and bonnets, but the children were embarrassed

¹⁰²⁰ Attachment 201, C.J. Boman, J. Rob Hutchinson, M.D. Physical Exam, 3-12-2002.

¹⁰²¹ Attachment 202, Chelsea Boman, J. Rob Hutchinson, M.D. Physical Exam, 3-12-2002; Attachment 203, Newman Memorial County Hospital Records, 3-12-2002.

¹⁰²² Id.; Attachment 200, Kayla Boman, J. Rob Hutchinson, M.D. Physical Exam, 3-12-2002.

¹⁰²³ Attachment 200, Kayla Boman, J. Rob Hutchinson, M.D. Physical Exam, 3-12-2002.

¹⁰²⁴ Id.

¹⁰²⁵ Attachment 188, Desiree Boman, St. Francis Health Center Medical Records, 8-8-2002.

¹⁰²⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 6-2-2005.

¹⁰²⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 6-2-2005.

¹⁰²⁸ Id.

by the spectacle.¹⁰²⁹ On October 25, 2002, Lisa took Kayla to Coffey County Hospital's Rural Health Clinic for a sports physical. Twelve year old Kayla had no complaints, but staff noted that Lisa did want them "to check a rash on the inner aspect of [Kayla's] left forearm," which Kayla had for the past couple of months.¹⁰³⁰ The rash was composed of small, whitish, irregular macular spots down the middle of her anterior forearm. Kayla's skin was extremely dry.

In the 2002-2003 school year, Desiree entered the tenth grade at Marais, and her grades declined. She received a D in Spanish II, a C- in world history, and B's in accounting, animal science, biology I, English 10, and Geometry.¹⁰³¹ Chelsea entered ninth grade in Melvern High School, where she would also attend the tenth and eleventh grades. Chelsea was a serious student and earned an A in health and safety, B's in general science, English, and choir, and C's in agriculture education, driver's education and Algebra 1. She lived at 820 North Ponca in Dewey, Oklahoma.¹⁰³²

Lisa and Kevin scrambled to make enough money to live on. Towards the end of the year, in October, 2002, the court reduced the amount of child support Kevin had to pay from \$900 a month to \$584 a month. Kevin and his former wife Lori were ordered to participate in family counseling with the Mental Health Center of East Central Kansas.¹⁰³³ Kevin worked for four different companies in 2003 but only earned \$29,474 for the year. He earned \$1,740 from Coachmen Industries; \$15,538 from Acme Sign; \$3,664 from D. L. Smith Electrical Construction; and \$8,532 from Power Plant Maintenance. Lisa's income dropped to pre-marriage levels.

¹⁰²⁹ Attachment 79, Declaration of Chelsea Boman Veal.

¹⁰³⁰ Attachment 204, Kayla Boman, Coffey County Hospital Sports Physical, 8-18-1990.

¹⁰³¹ Attachment 195, Desiree Boman, Marais des Cygnes Valley High School transcript.

¹⁰³² Attachment 205, Chelsea Boman, Dewey Public Schools Records.

¹⁰³³ Attachment 173, *Montgomery v. Montgomery*, District Ct of Osage Co., Kansas, No. 97D-192.

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Lisa continued to work early morning shifts and odd hours to mask her inability to keep up with routine chores at home, but it was apparent she could not keep up. Her mother in law commented that C.J. “looked like a ‘rag bag’ because his clothes were so tattered.”¹⁰³⁴ Lisa made \$843 from Greyhound; \$3524 from Neighborhood Markets; and \$3,048 from Casey’s in 2003. She had problems with her right wrist; on July 12, 2003, she went to the county hospital for right wrist pain after hitting her wrist on a fence post.¹⁰³⁵

Lisa tried to function around problematic periods of sustained mental absence from her children and events around her. Her youngest daughter Kayla described how Lisa’s lack of contact with reality affected Lisa and the children:

My strongest memory about growing up, as well as one of the saddest parts of my life is the fact that my mom was not present. Mom wasn’t able to be either mentally or emotionally present in my life, or in the lives of my brother and sisters. She definitely was with me physically, but that is all.¹⁰³⁶

Lisa was deeply compassionate and wanted to help her younger brother Teddy. In 2003 Lisa’s brother Teddy “had a bounty on him,” and he asked Lisa if he and his girlfriend, Bonnie, with whom he had lived several years, and their child, five month old Justin Jo Lee Kleiner,¹⁰³⁷ could stay at Lisa and Kevin’s.¹⁰³⁸ Kevin agreed on condition they did not bring drugs into the home. Teddy and Bonnie lived with them from January to March 2003. Teddy had a “sporadic” employment history and was unable “to maintain adequate housing for any

¹⁰³⁴ Attachment 197, Declaration of Vanita June Boman.

¹⁰³⁵ Attachment 206, Coffey County Hospital Medical Records, 7-12-2003.

¹⁰³⁶ Attachment 167, Declaration of Kayla Deanne Boman.

¹⁰³⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005

¹⁰³⁸ Id.

significant time.”¹⁰³⁹ He was blind in his left eye from birth.¹⁰⁴⁰ Judy and Teddy’s aunts told caseworkers “they were afraid of Teddy.”¹⁰⁴¹

Teddy’s time at Lisa’s let him see many, many behaviors and symptoms of how mental illness affected Lisa’s day to day life, everything from her disrupted sleep to her shifting and unpredictable moods. Her irrational behavior made Lisa “difficult to live with.”¹⁰⁴² She “never slept more than four or five hours.”¹⁰⁴³ Lisa did “several different things at once. . . .reading . . .knitting/tatting” while she did “her spinning wheel” and helped “the kids with homework all at one time.”¹⁰⁴⁴ Lisa started one project, lost track of it, and then started another. She “changed her mind a lot.”¹⁰⁴⁵ Lisa frequently had “severe” migraines, so painful that “she’d lay on the couch and cry” and “could not move.”¹⁰⁴⁶ Others noted Lisa’s severe migraines, including Brett and Tommy. Tommy saw Lisa “always taking aspirin. . . .for headaches.”¹⁰⁴⁷ Earlier, in 1993, Lisa had “vague physical complaints like headaches.”¹⁰⁴⁸

Lisa talked for 45 minutes straight without letting another person get a word in. Teddy described Lisa’s extreme manner of talking:

Most people would leave the room while she was still talking. She talked about different topics, which ranged from craft project, sheep, wools, lawnmowers, quilts, Judy, Patty, internet, and back and forth. She talked this way for most waking hours, except for when reading.¹⁰⁴⁹

¹⁰³⁹ Attachment 207, Justin Jo Lee Kleiner, The Farm, History, 1-27-2004.

¹⁰⁴⁰ Attachment 31, Declaration of Teddy Kleiner, 2-15-2013.

¹⁰⁴¹ Attachment 207, Justin Jo Lee Kleiner, The Farm, History, 1-27-2005.

¹⁰⁴² Attachment 57, Declaration of Holly Jackson incorporating interview with Teddy Kleiner, 3-12-2006.

¹⁰⁴³ Id.

¹⁰⁴⁴ Id.

¹⁰⁴⁵ Id.

¹⁰⁴⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner, 7-28-2005; Attachment 57, Declaration of Holly Jackson incorporating interview of Teddy Kleiner, 3-12-2006.

¹⁰⁴⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Tommy Kleiner, 3-9-[2005].

¹⁰⁴⁸ Attachment 2, Declaration of Lisa Rickert Incorporating Telephone interview with Brett Owens, 6-17-2005; see also Attachment 2, Declaration of Lisa Rickert incorporating interview with family, 3-10-2005 (Lisa’s mother, Judy; Lisa’s maternal half-sister, Jerri; and Lisa’s maternal niece Karen, whose mother is Patty, Lisa’s maternal half sibling, have migraine headaches).

¹⁰⁴⁹ Attachment 57, Declaration of Holly Jackson incorporating interview with Teddy Kleiner, 3-12-2006.

Teddy went “outside to get away from Lisa.”¹⁰⁵⁰

Lisa was like one of the kids in the house, often not doing much housework, playing with games, and “in her own little world.”¹⁰⁵¹ Lisa did not have a realistic appreciation of budgeting and finances. She “never waited until payday to buy things. Anything she wanted, she bought,” and she often bought “useless stuff.”¹⁰⁵² Teddy witnessed Lisa’s sudden mood changes. One day, as Chelsea helped her mother spin sheared Lamb’s wool onto a spool, the spool slipped from Chelsea’s hand and fell to the floor. Lisa “immediately flew into a verbal and physical rage,” hitting Chelsea on her face.¹⁰⁵³ Lisa stopped after Teddy intervened. C.J. had chronic asthma. He had an allergic reaction to an unspecified allergen and was treated for a rash and chest pain, in March, 2003.¹⁰⁵⁴

For Teddy, “living with Lisa and Kevin was like living with the Amish. Lisa worked, knitted, sewed, canned, and farmed.” Lisa’s daughter Desiree tried to run the household, but she was too young and under too much pressure. Desiree “slapped the other kids around.”¹⁰⁵⁵ In contradiction to her desire to live an old fashioned life style, Lisa spent most of her time while at home on the computer.¹⁰⁵⁶ Lisa was an “over spender,” one of the flag ships of untreated bipolar mood disorder, and it created enormous financial pressures on her and Kevin.¹⁰⁵⁷

Lisa and Kevin wanted to help Teddy get a job and Bonnie to learn to parent. Kevin’s father loaned Teddy and Bonnie a vehicle to use.¹⁰⁵⁸ Kevin bought Justin baby food and clothes and gave them all shelter. Lisa and Kevin’s assistance, while caring and compassionate, was

¹⁰⁵⁰ Id.

¹⁰⁵¹ Id.

¹⁰⁵² Id.

¹⁰⁵³ Attachment 181, FBI 302 Interview with Teddy Kleiner, 1-12-2005.

¹⁰⁵⁴ Attachment 209, C.J. Boman, Coffey Co. Hospital Records, 3-24-2003.

¹⁰⁵⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner, 7-28-2005.

¹⁰⁵⁶ Id.

¹⁰⁵⁷ Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 3-9-2005.

¹⁰⁵⁸ Id.

totally inadequate to overcome Teddy and Bonnie's considerable short comings as parents. Child protective services immediately removed Justin from Kevin and Lisa's home and placed Justin in foster care.¹⁰⁵⁹ Teddy asked Lisa and Kevin to consider rearing Justin, and they agreed.¹⁰⁶⁰ The Kansas Department of Social and Rehabilitation Services (SRS) flat out rejected the idea of Justin being placed with any family member, including Lisa, because the ever changing alliances within the Montgomery and Kleiner families and family feuds made it difficult to utilize family resources.¹⁰⁶¹ The social worker also concluded "there was too much animosity in the family" to place Justin within the family.¹⁰⁶² They placed the infant with an established foster parent couple. Various family members visited Justin at the foster parents, and the caseworker again noted "There was a lot of animosity between family members."¹⁰⁶³

Teddy "went to rehab" in March 2003.¹⁰⁶⁴ Bonnie stayed with Lisa and Kevin where "she felt like a hostage."¹⁰⁶⁵ Lisa visited Teddy in rehab and "told him her baby was brain dead but that she had to carry it full term."¹⁰⁶⁶ Lisa "looked strange."¹⁰⁶⁷ Lisa returned to rehab and told Teddy the baby died, but Teddy figured out that there was no baby. He did not tell her he knew there was no baby.¹⁰⁶⁸ Kevin's former wife reported that on February 30 2003, Lisa gave birth to a stillborn and donated the body to science.¹⁰⁶⁹

¹⁰⁵⁹ According to Teddy, who is Justin's father, and Bonnie, who is Justin's mother, they "were only with Lisa and Kevin one day when Lisa's friend Lori Dunn from the Sheriff's Department came and took Justin and placed him in foster care." (Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner, 7-28-2005).

¹⁰⁶⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹⁰⁶¹ Attachment 211, KS Dept. of Social and Rehab Services, Children and Family Services, Court Report, 3-31-2003.

¹⁰⁶² Attachment 207, Justin Kleiner, The Farm, Timeline, 8-4-2003.

¹⁰⁶³ Id.

¹⁰⁶⁴ Teddy entered the 12-12 Rehab Center, 1212 East 12th Street, Tulsa, Oklahoma. (Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner 7-28-2005).

¹⁰⁶⁵ Id.

¹⁰⁶⁶ Id.

¹⁰⁶⁷ Id.

¹⁰⁶⁸ Id.

¹⁰⁶⁹ Attachment 212, FBI Interview with Lori Colwell, 2-15-2005.

The subsequent legal battle in 2003 for custody of Teddy and Bonnie's son spotlighted long standing feuds, grudges, and antagonism that colored all family interactions. Lisa's mother, Judy, intervened and asked for custody of Justin to be awarded to her.¹⁰⁷⁰ At one point both Lisa and Judy wanted Justin, and Teddy was very "confused" and did not know "what was real."¹⁰⁷¹ Teddy was troubled by "self-doubt" and "low self-esteem," and had required treatment with psychotropics including Geodon, an antipsychotic, and he also self medicated with Wellbutrin in the past.¹⁰⁷² Teddy had already terminated parental rights to his first child, a daughter named Hope, so his mother would not get custody of her.¹⁰⁷³

Hope¹⁰⁷⁴ was Teddy and Bonnie's first child who was born with gastroskeisis which required surgery and subsequent hospitalization for one month. Oklahoma courts terminated parental rights of both Teddy and Bonnie and placed Hope with the Division of Family Services (DFS) for the purposes of adoption, because Teddy and Bonnie did not provide adequate medical care. DFS also requested that "neither biological parent be allowed visitation with Hope."¹⁰⁷⁵ Judy and her sixth husband, Danny Shaughnessy,¹⁰⁷⁶ requested that Hope be placed in their home. They travelled between Kansas and Oklahoma frequently to visit with Hope, participated in a home study, and submitted persuasive letters of recommendation from neighbors, friends, and local business people who had known Judy only for the past two years.

¹⁰⁷⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹⁰⁷¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner, 7-28-2005.

¹⁰⁷² Attachment 210, Teddy J. Kleiner, Kansas Department of Corrections, Mental Health Evaluation 1-21-2004.

¹⁰⁷³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner, 7-28-2005, p.6; see also, Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy 3-14-2005, p.5. (Judy was "back and forth trying to get custody of Hope.")

¹⁰⁷⁴ Attachment 27, Hope Kleiner (DOB 8-19-1999) (Oklahoma Department of Human Services, Home Study, 7-18-2001).

¹⁰⁷⁵ Id.

¹⁰⁷⁶ Danny Shaughnessy (DOB 5-28-1950) completed three tours of duty in Vietnam and was honorably discharged from the U.S. Navy in 1972. He was previously married for 23 years and had four children with his ex-wife. He "had a time in his life where he struggled with alcohol dependency. . . .Danny has been sober for 3 ½ years." (Id.).

The caseworker for the home study for Hope Kleiner took Judy at her word, and Judy painted a pastoral life style for her and her sixth husband: farming, enjoying hobbies, and staying home. The study did not reference Judy's alcoholism, humiliation and physical maltreatment of her children, and the chaos and fear her children experienced as they grew up. Judy acknowledged she was married multiple times, but told case workers she had only four instead of five previous marriages. The case worker accepted and reported that Judy and Danny "come from families where marriage is a lifelong commitment," despite both their reports about past failed marriages.¹⁰⁷⁷ Judy misrepresented her practice of physically abusing her children and said only that she had spanked them. Judy acknowledged that her past marriages failed for reasons including "substance abuse, domestic violence, extramarital affairs and the Vietnam war."¹⁰⁷⁸ She also falsely claimed that she and Richard Boman lived all over the United States during their marriage due to his active enlistment in the U.S. Military.¹⁰⁷⁹ Lisa did not publicly oppose her mother's adoption of Hope. Child and Family Services originally approved Judy to adopt Hope, but the adoption by, and placement with, Judy were canceled September 19, 2001.¹⁰⁸⁰

Teddy completed his inpatient treatment program March 24, 2003, and did not want to go back to Lisa's to live.¹⁰⁸¹ His treatment team recommended long-term out-patient care for the next three to five years.¹⁰⁸² He and Bonnie got their own place, a trailer in Ottawa, Kansas, and Teddy tried to distance himself from Lisa because of what he considered her "strange behavior" about the baby.¹⁰⁸³ Teddy and Bonnie moved to Ottawa, he did not have a driver's license, he

¹⁰⁷⁷ Id.

¹⁰⁷⁸ Id.

¹⁰⁷⁹ Attachment 264, Hope Kleiner Home Study 3-7-00

¹⁰⁸⁰ Attachment 214, Kansas Interstate Compact on Placement of Children, 9-19-2001.

¹⁰⁸¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner, 7-28-2005.

¹⁰⁸² Attachment 265, Salvation Army Shield of Service Discharge Summary for Teddy Kleiner, 3-31-03.

¹⁰⁸³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner, 7-28-2005.

got laid off at his job, and he started to make methamphetamine.¹⁰⁸⁴ Some family members believe Judy turned Teddy in to authorities for an advantage in seeking custody of Justin.¹⁰⁸⁵

Within short order, Teddy was arrested July 22, 2003, and sentenced to prison, but not without contributing to an enormous family battle that surrounded Teddy's arrest. Teddy ran a meth lab in his trailer in Ottawa, Kansas, and after his arrest, Lisa and her sister Patty went to the trailer to try and clean it. Tommy "showed up" at the trailer and tried to rip out the walls "looking for Teddy's hidden stash."¹⁰⁸⁶ Lisa confronted Tommy and asked him if he was involved in Teddy's math lab, and Tommy "started threatening to cut" Lisa and Patty's throats.¹⁰⁸⁷ Lisa filed a complaint with the Osage County Sheriff against Tommy for threatening to kill her and Patty.¹⁰⁸⁸ Lisa feared that if Tommy got angry he would "hurt somebody" and "retaliate" against her.¹⁰⁸⁹ Tommy had choked Lisa with a phone cord several years earlier.¹⁰⁹⁰ Patty and Tommy later denied that Tommy threatened Lisa.¹⁰⁹¹ Tommy was arrested July 25 2003,¹⁰⁹² the day after the confrontation at the trailer, and Lisa stopped visiting her mother's home.¹⁰⁹³ Later that day, Judy signed a surety bond for Tommy so that he could be bonded out of jail.¹⁰⁹⁴

Lisa abandoned her plans to gain custody of Justin and devoted her effort to prevent Judy from obtaining custody of the child. Lisa believed Justin would be "better off" in foster care

¹⁰⁸⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 3-9-2005.

¹⁰⁸⁵ Id.

¹⁰⁸⁶ Attachment 213, In the Matter of Justin Kleiner, Tr. 169, Testimony of Lisa Montgomery.

¹⁰⁸⁷ Id.

¹⁰⁸⁸ Attachment 266, Montgomery v. Kleiner, District Court of Osage County, No. 03-DM-198, 12-01-03 .

¹⁰⁸⁹ Attachment 213, In the Matter of Justin Kleiner, Tr. 173, Testimony of Lisa Montgomery

¹⁰⁹⁰ Attachment 29, In the Matter of Justin Kleiner Testimony of Desiree Boman.

¹⁰⁹¹ Attachment 213, In the Matter of Justin Kleiner, Tr. 174, Testimony of Lisa Montgomery.

¹⁰⁹² Attachment 216, Toinmy Kleiner Franklin Co. 2003 misc. court records : On 9-10-2003, the court sentenced him to 60 days supervised release on misdemeanor assault charges. The sentence was suspended and Tommy was put on 12 months of probation. The court also ordered Tommy to stay away from Lisa.

¹⁰⁹³ Attachment 213, In the Matter of Justin Kleiner, Tr. 176, Testimony of Lisa Montgomery.

¹⁰⁹⁴ Attachment 215 State of Kansas v. Tommy L. Kleiner, District Ct. for Franklin Co., No. 03-CR-242. 2003, Appearance Bond.

than living with Judy.¹⁰⁹⁵ Lisa attended a number of court hearings on custody of Justin.¹⁰⁹⁶ Despite or because of Judy's maltreatment of Lisa, Lisa "desperately" wanted a relationship with her mother, but her decision not to support Judy's attempt to gain Justin's custody case sealed Judy's antagonism toward Lisa.¹⁰⁹⁷ A fall 2003 home study reported that "Lisa and Judy have a strained relationship and Lisa is not allowed to come to Judy's home."¹⁰⁹⁸ The case worker noted that Teddy was physically abused, Jack was an alcoholic, Judy drank and "slept around," and Lisa was Teddy's caregiver."¹⁰⁹⁹ The case worker also noted that Patty was an inter-racial child with "no father's name noted."¹¹⁰⁰

Lisa's behavior and testimony against Judy at Justin's custody hearings were strange. She dressed in her "Laura Ingalls's" outfit, the same one that had embarrassed her daughter.¹¹⁰¹ In the middle of Lisa's testimony she cried hysterically.¹¹⁰² When Lisa had her outburst, she looked dramatically different, "like her soul left her."¹¹⁰³ Lisa brought a "computer baby" to court that was part of Desi's or Chelsea's school assignment. Tommy "could not tell if Lisa acted like it was a real baby."¹¹⁰⁴ Tommy thought the episode was "weird and crazy."¹¹⁰⁵ Lisa testified and rambled about how she, Tommy, and Patty had a confrontation at the trailer shortly after Teddy's arrest. Lisa also testified that she had her tubes un-tied two years previously in Topeka and that she had a stillborn baby May 30, 2003.¹¹⁰⁶

¹⁰⁹⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview of Kevin Montgomery, 7-28-2005.

¹⁰⁹⁶ Id.

¹⁰⁹⁷ Id.

¹⁰⁹⁸ Attachment 217, Justin Kleiner, Adoptive Home Study, 9-12,16,17 and 22-2003..

¹⁰⁹⁹ Attachment 218, Justin Kleiner, Pediatric Associates, Medical Screening Records, 3-17-2004.

¹¹⁰⁰ Id.

¹¹⁰¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner, 7-28-2005.

¹¹⁰² Id.

¹¹⁰³ Id.

¹¹⁰⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Tommy Kleiner, 3-9-[2005].

¹¹⁰⁵ Attachment 41, Declaration of Tommy Lee Kleiner.

¹¹⁰⁶ Attachment 213, In the Matter of Justin Kleiner, Tr. 179, Testimony of Lisa Montgomery.

Although Lisa deeply believed that Justin should not be subjected to the abuse she and her siblings experienced, she made no mention of it and instead reverted to describing Judy's loyalty to one child over another. The judge was bewildered about the purpose of her testimony, and asked her to clarify it, but Lisa, like many abuse victims, could not do it:

THE COURT: Okay. Court's trying to figure out exactly what your motivation is for being here today. Are you here because you want to set – you want to tell the truth about facts?

MS. MONTGOMERY: Yes. I got involved with this when Teddy and Bonnie came to my house asking for help. Teddy wanted to go to rehab. Bonnie needed a place to stay with Justin. They had nothing for him. I spent a whole day getting a playpen, diapers, everything that baby needed. And when Laurie Dunn called and said she needed to check on him, I said come out. And they took him and put him in foster care. I was okay with that so Teddy and Bonnie could get their lives back on track. I did everything I could for almost two months to help Teddy and Bonnie.

THE COURT: Are you mad at Teddy and Bonnie, or mad at your mother?

MS. MONTGOMERY: I'm not mad at Teddy and Bonnie. I was disappointed in what they did, but I'm not mad at them, no.

THE COURT: How would you describe your relationship with your mother?

MS. MONTGOMERY: It's been – we were getting along, trying to get along up til Justin was born. And things that she said and did make, you know, wonder.

. . . My mom had every intention of taking custody of him [Justin], that's what she wanted, it was her goal, not to try and help Teddy and Bonnie get their lives back on track, but to take Justin . . . [S]he thought she could get custody of Justin . . .

THE COURT: Well, I guess the problem I'm having here, I'm trying to understand your motivation for testifying . . .

MS. MONTGOMERY: . . . I was here at the first hearing. I helped Teddy and Bonnie with their visits getting transportation. My in-laws even gave them a car so they could do that on their own. But I have stayed out of it until the last hearing last month when I was called and asked how I felt about my mother getting custody of Justin. I felt that that's not a good idea when she was willing to let my brother terrorize us and then cover for him so that she would be able to get custody of Justin.

You don't know what it's like to go to your mom and say your little brother's taking a knife and threatening to kill you, and she's saying don't say nothing, let it go or I won't get that baby?

THE COURT: All right. Anyone else want to follow up on any of that?

MS. MONTGOMERY: And then they covered for each other. They have.

THE COURT: Anyone? All right. I guess you can step down.¹¹⁰⁷

¹¹⁰⁷ Attachment 213, In the Matter of Justin Kleiner, Tr. 177-181, Testimony of Lisa Montgomery.

Judy considered involuntarily committing Lisa to a psychiatric hospital. During the custody hearings for Justin, Judy asked her attorney what it would take to get Lisa committed and learned “Lisa would have to be considered a threat to herself or others.”¹¹⁰⁸ There is no documentation that Judy took any further action, but Danny Shaughnessy told Justin’s caseworkers “he and Judy tried to get Lisa mental health help” early in 2004.¹¹⁰⁹

The lines of reality further blurred for Lisa, and she took on the character and appearance of her cousin, Wendy. Wendy was “Lisa’s best friend,” according to Teddy.¹¹¹⁰ When the family went to court on the custody of Justin, Lisa seemed to be “trying to be her cousin Wendy Tribes. She dressed like her, acted like her, and had her hair the same as Wendy.”¹¹¹¹ Wendy already had many children and told Lisa the next child she had would be named Abigail – the same name Lisa ultimately gave to the Stinnett baby.¹¹¹² In January 2003, Wendy gave birth to a daughter after a tubal ligation reversal.¹¹¹³

On June 25, 2003, Lisa took 14 year old Chelsea to the ER at Coffee County Hospital when Chelsea collapsed and passed out while doing dishes. Chelsea had not started her menses yet. She had a frontal headache without nausea intermittently for three weeks and was lightheaded. She was diagnosed with near syncope, “Hypoglycemia,” and headache and instructed to take Tylenol or Motrin as needed for headaches and to eat frequent small carbohydrate rich meals.¹¹¹⁴

¹¹⁰⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy, 7-26-2005.

¹¹⁰⁹ Attachment 219, Justin Kleiner, Case Activity Log for Monthly Family Contact, 12-20-2004.

¹¹¹⁰ Attachment 54, Ron Ninemire interview with Teddy Kleiner, 1-22-2005.

¹¹¹¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy, 3-14-2005.

¹¹¹² Id.

¹¹¹³ Attachment 19, Declaration of Wendy Treibs.

¹¹¹⁴ Attachment 220, Chelsea Boman, Coffey Co. Hospital Records, 6-25-2003.

On August 18, 2003, Lisa started work at Casey's in Kansas as a cashier.¹¹¹⁵ On August 26, 2003, Carl Boman fell off a cart, suffered a right radial head fracture that required surgery, and received Worker's Compensation until December, 2003. On November 7, 2003, Lisa sought medical treatment for left ankle pain. She had no history of an injury to the ankle but it was tender with palpation. Her left foot was x-rayed, and there was no deformity, dislocation, or fracture. The physician prescribed Darvocet-N 100.¹¹¹⁶

In the 2003-2004 school year, Desi was in the eleventh grade at Marais des Cygnes Valley High School. She did better than the year before and received an A- in agriculture business, B+'s in chorus and plant soil science; B's ag mechanics and anatomy, and B-'s in chemistry and English II. Her absences crept up to 16 from eight the previous year.¹¹¹⁷ Chelsea began the tenth grade at Melvern High School for the 2003-2004 school year.¹¹¹⁸

Lisa did not attend Thanksgiving dinner at Judy and Danny's, but Patty and her daughters, Justin, Jerri Jo and her daughter, Desiree, and Kayla attended. Tommy had to stay on the back porch because he was not allowed by SRS and The Farm to be near Justin. On November 30, 2003, Lisa called the Lyndon police because Tommy showed up at Casey's where Lisa worked and violated the order to stay away from her.¹¹¹⁹ On December 1, 2003, Lisa filed for protection from stalking against Tommy, and a day later Tommy's probation was revoked because he tried to contact Lisa, in violation of his conditions of probation.¹¹²⁰ At a 2003 Christmas school program, Judy and Jerri Jo told Lisa's daughter Desiree to tell Lisa to "watch her back."¹¹²¹

¹¹¹⁵ Attachment 221, Casey's General Stores, Inc., Employment file of Lisa Montgomery.

¹¹¹⁶ Attachment 222, Cotton-O'Neil Clinic, Topeka, KS, 11-07-2003.

¹¹¹⁷ Attachment 195, Desiree Boman, Marais de Cygnes Valley High School Transcript.

¹¹¹⁸ Attachment 205, Chelsea Boman, Dewey Public Schools Transcript.

¹¹¹⁹ Attachment 223, Kansas v. Kleiner, Franklin Co. District Court, No. 03-CR-242.

¹¹²⁰ Id.

¹¹²¹ Attachment 29, In the Matter of Justin Kleiner TR 149, Testimony of Desiree Boman

Lisa went to Dr. Rob Hutchinson at Coffey County Hospital for a stubbed toe on her left foot. Radiology concluded degenerative changes occurred but there was no fracture or significant swelling.¹¹²²

m. 2004 Shifting Alliances

By the time 2004 began, Lisa was alienated from everyone in her family of origin. Judy built a coalition against Lisa built upon Judy's children's dependency on Judy. Judy recognized that all of her children were "screwed up," unable to live independent lives, and required her help.¹¹²³ Lisa's siblings also had ever changing dynamics with their mother and with each other. Teddy described his family: "They all play games. They all turn on each other."¹¹²⁴

Relationships, loyalties, and perceptions constantly shifted in Lisa's family, as children and adults alike tried to appease Judy and the series of abusive men she brought into the home. Children formed and dissolved relationships with each other in reaction to omnipresent coercion by Judy who withheld or granted safety, food, shelter, clothes, and love as rewards for allegiance to her. One cousin concluded the entire family was "two-faced."¹¹²⁵ "Lisa is not close to anyone in the family."¹¹²⁶ "Lisa got along with Teddy up until he went to prison."¹¹²⁷ "Patty and Jerri don't like Lisa."¹¹²⁸ Tommy Kleiner, Lisa's younger maternal half-brother, had the most violent relationship with Judy,¹¹²⁹ and in 2004 time, had a violent relationship with Lisa.

¹¹²² Attachment 224, Coffey County Hospital Records, 12-12-2003.

¹¹²³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy, 7-26-2005.

¹¹²⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Teddy Kleiner, 7-28-2005.

¹¹²⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kenny Alexander, 7-26-2005.

¹¹²⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Tommy Kleiner, 3-9-[2005].

¹¹²⁷ Id.

¹¹²⁸ Id.

¹¹²⁹ Attachment 225, Kansas v. Tommy Kleiner, District Court of Shawnee Co., No. 98-CR-01335: On April 5, 1998, 20 year old Tommy threatened to hurt Judy "really bad" unless she returned to her fifth husband, Hector Ochoa. Tommy accused Judy of "sleeping with other men." He was arrested May 15, 1998 and charged with Criminal Threat, and the charges were dismissed July 28, 1998. At the time, Tommy's address was 1919 S.E. Adams, #15, Topeka. Witnesses in the case were Alice Derry, Judy's sister, Judy, and Hector Ochoa.

Lisa's former brother in law, Allen Baldwin who was married to Patty, described a family reunion where Lisa was ostracized and ridiculed:

Allen and Patty returned to Topeka, Kansas for a family reunion in 1996. All of the siblings (Tommy, Teddy, Jerri Jo, Patty and Lisa) stayed at their aunt's house. All of the siblings were "extremely rude" to Lisa during the family reunion. They made fun of her hair and her clothes. That evening Allen took Patty aside and told her she should be ashamed of herself for treating her sister that she hadn't seen for a long time so harshly . . . Allen said their treatment of Lisa at the family reunion reminded him of school children. There's usually one kid who is picked on. When the next school year arrives, it doesn't matter that it's a brand new school year, the kids still pick on the identified one and don't give them a fresh start. He felt sorry for Lisa.¹¹³⁰

Lisa and Kevin's finances were complicated by a dizzying schedule of payments Carl had to make to Lisa for their children and Kevin had to make to Lori for their children. Neither Carl nor Kevin was able to meet their financial obligations. On February 2, 2004, the court ordered Carl Boman to pay \$1,386 a month for child support.¹¹³¹ Carl's ability to pay child support was very limited due to nerve surgery on his elbow on May 19, 2004, where he sustained some permanent disability.¹¹³² Nonetheless, On June 25, 2004, the court issued an order to Carl's employer to withhold income for child support in the amount of \$919 a month. On July 20, 2004, Carl was ordered to pay an additional \$1478 for arrears from any lump-sum settlement he received from Zinc Corporation.¹¹³³ On October 15, 2004, Carl, who received worker's compensation, sought a suspension of his child support payments to Lisa.¹¹³⁴ On the same date, Carl's worker's compensation benefits were terminated by the insurance company based in part

¹¹³⁰ Attachment 94, Dani Waller interview with Allen Baldwin.

¹¹³¹ Attachment 267, Carl Boman, Motion for Modification of Child Support 2-2-04

¹¹³² Attachment 127, Carl Boman Worker's Compensation, Bartlesville Surgery Center : On 8-26-2003 Carl fell from a golf cart onto blacktop while working for Zinc Corporation of America and suffered a right radial head fracture that required surgery and physical therapy. The injury caused him persistent pain, he was unable to work, and he applied for Worker's Compensation.

¹¹³³ Attachment 111, Kansas v. Carl Boman, Motion for Involuntary Assignment of Wages, Dist. Court for Osage co. Kansas, No. 00D-000157

¹¹³⁴ Attachment 184, Kansas v. Carl Boman, Dist. Court for Osage Co., Kansas, No. 00D-157.

on a report prepared by Dr. Tracy Painter.¹¹³⁵ On October 18, 2004, Carl filed to stay child support payments because he had no income due to his disability.¹¹³⁶ On March 12, 2004, Kevin's child support was increased from \$389 a month to \$553 a month plus \$165 a month for arrears.¹¹³⁷ Kevin was employed at Acme Sign in Kansas City. On May 4, 2004, Kansas's SRS reduced Kevin's child support to \$507 monthly and \$165 monthly for arrears. Kevin's monthly income was \$2427.¹¹³⁸

In 2004, Lisa held three jobs, so her income increased, but her ability to manage finances – or anything else for that matter – decreased. She earned \$8865 from Greyhound; \$2073 from Casey's General Store; and \$4225 from Legacy Restaurant Group.¹¹³⁹ Judgment was entered against Lisa on behalf of Coffey County Hospital for \$400 for services.¹¹⁴⁰ Financial problems mounted. Lisa and Kevin owed James McMurray, their dentist, \$1500, but he wrote off the debt.¹¹⁴¹

Lisa was not able to keep up with the day-to-day tasks of parenting as she raced from one unrealistic plan to the next. Lisa insisted on doing things “the old fashioned way” even though she had little time for chores. She tried to make the children “do household or gardening chores,” but “stopped supervising them,” and it showed in the poor state of her home.¹¹⁴² She expected the children to use an outdated wringer washer, cook, can, and keep the house clean. Although Lisa “generally did not keep a clean house,” the housekeeping was “completely

¹¹³⁵ Attachment 268, History and Physical of Carl Boman by Dr. Tracy Painter, 9-1-2004.

¹¹³⁶ *Id.*, at Motion to Temporarily Stay Child Support and Motion to Determine Child Support, 10-18-2004.

¹¹³⁷ Attachment 173, *Montgomery v. Montgomery*, District Ct. for Osage Co., Kansas, No. 87D-192.

¹¹³⁸ *Id.*

¹¹³⁹ Attachment 120, Lisa Montgomery Social Security Itemized Earnings Statement.

¹¹⁴⁰ Attachment 233, *Coffey Health Systems v. Lisa Montgomery*, No. 2004-LM-0108, Judgment in the amount of \$400.

¹¹⁴¹ Attachment 234, James H McMurray, DDS, Account History Report.

¹¹⁴² Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 6-2-2005.

neglected” after she became obsessed with dog breeding in 2004.¹¹⁴³ The house and garden went untended all year.¹¹⁴⁴ Weeds took over the garden.¹¹⁴⁵ Lisa let her garden “slide” in 2004, as she sank deeper and deeper into depression.¹¹⁴⁶ C.J. noticed that Lisa “was much more detached” and he “had to repeat things to her more than one time.”¹¹⁴⁷

In February, 2004, Kevin encountered his yet another false pregnancy with Lisa, although he continued to believe the pregnancies were real. He bought a home pregnancy test for Lisa, but never saw the test results. Kevin did not question that she was pregnant, because he and the children heard Lisa vomiting. At first, Kevin and Lisa did not want to tell anyone Lisa was pregnant because of the trouble with the pregnancy in 2002. Kevin worried about Lisa working three jobs at Greyhound, Casey’s General Store and Wendy’s. Kevin felt “guilty” because he couldn’t get another job to help with finances because his wages “would be taken for child support.”¹¹⁴⁸ Kevin once again believed he saw physical signs of Lisa’s pregnancy: her “belly got bigger, her breasts got bigger, she wore loose clothing.”¹¹⁴⁹ He believed he “felt the baby move.”¹¹⁵⁰

On February 22, 2004, Lisa and Tommy testified at Tommy’s probation revocation hearing in Franklin County. Patty’s alliance switched to Tommy though Patty was present when Tommy threatened to cut her and Lisa’s throats.¹¹⁵¹ The day after testifying at Tommy’s probation revocation hearing, Lisa filed for a protection order to keep Judy and Patty away from Lisa and Lisa’s children. Lisa claimed that Judy threatened to interfere with Lisa’s family. Two

¹¹⁴³ Id.

¹¹⁴⁴ Id.

¹¹⁴⁵ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹¹⁴⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Isabel Phelon, 3-9-2005.

¹¹⁴⁷ Attachment 168, Declaration of Carl James (C.J.) Boman II.

¹¹⁴⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹¹⁴⁹ Id.

¹¹⁵⁰ Id.

¹¹⁵¹ Attachment 213,, In the Matter of Justin Kleiner Tr. 179, Testimony of Lisa Montgomery

weeks later, on February 25, 2004, Lisa moved for a dismissal of this order, and dismissal was granted.¹¹⁵²

Lisa, Desiree, and Kayla prepared affidavits to file with the court in the ongoing dispute about Justin's custody. Desiree asserted that Judy and others smoked around Justin, who had recurrent respiratory problems, that Judy allowed Tommy to visit when Justin was in her home, that Judy and Jerri Jo threatened Lisa and Kevin if they opposed Justin being placed with Judy, and that Judy took Desiree away from Lisa years earlier. Kayla signed an affidavit saying much the same thing as Desiree and adding that Danny Shaughnessy drank and that Judy will retaliate or provoke Tommy to retaliate if Kayla and Desiree testified. Lisa also signed an affidavit summarizing Tommy's assaultive behavior against her July 24, 2003. Lisa also stated that Judy asked Lisa not to report Tommy's behavior because it would interfere with Judy's efforts to adopt Justin.¹¹⁵³

Lisa lost her battle to protect Justin from Judy. On April 4, 2004, the court placed Justin with Judy and Danny Shaughnessy,¹¹⁵⁴ and Teddy and Bonnie signed statements of unfitness to parent.¹¹⁵⁵ Caseworkers requested that Justin have "no contact" with Tommy Keiner "due to his history of domestic violence. He has had charges against him by his ex-girlfriend and two of his sisters."¹¹⁵⁶ Lisa also suspected that, after she filed for protection from his stalking her and his probation was suspended, he ran over the children's dog and threw it on the front porch.¹¹⁵⁷

¹¹⁵² Attachment 236, *Montgomery v. Shaughnessy*, Dist. Ct. for Osage County, KS, Case No. 2004-DM-000023, Order of Dismissal, 2-25-2004.

¹¹⁵³ Attachment 213, *In the Interest of Justin Jo Lee Kleiner, a Minor Child*, Transcript of Petition for Permanent Guardianship, Testimony of Lisa Montgomery, 4-5-2004.

¹¹⁵⁴ Attachment 269, *Waiver of Parental Rights for Justin Kleiner* by Bonnie Taylor and Teddy Kleiner.

¹¹⁵⁵ *Id.*

¹¹⁵⁶ Attachment 207, *Justin Kleiner, The Farm*, Court Update, March 31, 2004.

¹¹⁵⁷ Attachment 270, *In the Matter of Justin Kleiner*, Case Activity Log for Monthly Family Contact, 2-10-2004.

The turmoil affected the children. On April 15, 2004, Lisa took Chelsea to the ER for nausea and vomiting.¹¹⁵⁸ The 15 year old was in tears and complained of pain in her abdomen and throat, and staff noted she was depressed. She was diagnosed with viral gastroenteritis, discharged home, and prescribed Phenergan.¹¹⁵⁹ The same day, Lisa took Chelsea to Waverly Medical Clinic for a drug screening and told staff that Chelsea “voiced that she might be wanting to kill herself.”¹¹⁶⁰ Desiree had found Chelsea “throwing up in the bathroom at school.”¹¹⁶¹ Lisa had “heard from friends and school friends that she [Chelsea] has threatened to kill herself.”¹¹⁶² Lisa felt that there were “problems” with Chelsea.¹¹⁶³ Lisa acknowledged that they had “some family problems with the stepfather and her [Chelsea’s] real father” and that she [Lisa] worked outside the home and was not home a lot.¹¹⁶⁴ Chelsea denied feeling bad in any way or having any problems at school or at home. Chelsea said she had “no intention of committing suicide as she want[ed] to go ahead and go to college after she gets out of high school.”¹¹⁶⁵ Chelsea had a drug screen test, and the toxicology report came back negative.¹¹⁶⁶

The children started school in the fall for the 2004-2005 school year and did well in light of the chaos at home. Desiree entered her senior year and brought home A’s, B’s, and C’s. She served as a teacher’s aide and graduated high school in May 2005. Not surprisingly in light of the interruption of her school year by her mother’s arrest, her absences increased to 20 days.¹¹⁶⁷ C.J. was in the tenth grade At Marais des Cygnes Valley High School in Melvern, and earned

¹¹⁵⁸ Attachment 237, Chelsea Boman, Newman Regional Health Center, Patient Discharge Sheet, 4-15-2004.

¹¹⁵⁹ Attachment 238, Chelsea Boman, Waverly Medical Clinic, 4-15-2004.

¹¹⁶⁰ Id.

¹¹⁶¹ Id.

¹¹⁶² Id.

¹¹⁶³ Id.

¹¹⁶⁴ Id.

¹¹⁶⁵ Id.

¹¹⁶⁶ Id.

¹¹⁶⁷ Attachment 195, Desiree Boman, Marais des Cygnes Valley High School Transcript.

mostly A's and B's, with two C's in English 9 and general science. He had to retake 9th grade English.¹¹⁶⁸ Chelsea entered the eleventh grade at Melvern High School, and her grades improved during the first semester, but of course fell precipitously in the second semester after her mother's arrest. In the first semester, Chelsea made A's in publishing and yearbook, B's in principles of biology, computer applications, and physics. Overall, her class rank was 40 out of 81.¹¹⁶⁹

Lisa was mentally confused and unable to provide a consistent narrative about her pregnancy. By Kevin's calculations, the due date was October, 2004, and he was surprised when the due date moved to December. Kevin "wondered whether Lisa tricked him into not using condoms," but never made an issue of it.¹¹⁷⁰ Lisa told some people she was expecting a boy and others she was expecting a girl. She told other people she was carrying twins and lost one of the twins.¹¹⁷¹

In contrast to Kevin's solid belief that Lisa was pregnant, Lisa's mother and one of Lisa's sisters, Jerri Jo, did not believe Lisa was pregnant and did their best to dispel belief in Lisa's pregnancies. Judy and Jerri Jo went to Kevin's parents' home, and told them Lisa was not pregnant. Kevin and his parents dismissed the message as animosity towards Lisa. Kevin thought Jerri Jo and Judy "were getting back" at Lisa for her stance during Justin's custody battle.¹¹⁷² Judy explained that she was "tired of listening to Lisa's and Kevin's grief over the 2002 miscarriage."¹¹⁷³ Kevin also dismissed another warning that Lisa was not pregnant when

¹¹⁶⁸ Attachment 239, C.J. Boman, Marais des Cygnes Valley High School Transcript.

¹¹⁶⁹ Attachment 205, Chelsea Boman, Dewey Public School Transcript.

¹¹⁷⁰ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹¹⁷¹ Id.

¹¹⁷² Id.

¹¹⁷³ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy, 4-14-2005.

Lisa's sister Patty yelled at Kevin that Lisa had a tubal ligation. Kevin "had no clue what that was."¹¹⁷⁴

Lisa was not just out of touch with reality about her pregnancies. She was also out of touch with reality when it came to her two dogs, given to her by Carl in lieu of payment for child support.¹¹⁷⁵ Lisa was consumed with the dogs and "paid attention only to the dogs."¹¹⁷⁶ Even though she "was never much of a cleaner," the conditions in the home "got worse and worse."¹¹⁷⁷

Lisa was not able to perform simple tasks. Kevin worried about Lisa but did not know what to do. Lisa had a "short temperament with the children, she did not clean the house, she spent too much time on the computer, paying too much attention to the dog breeding business, and she wasn't paying the bills."¹¹⁷⁸ She was "very irritable."¹¹⁷⁹ She was not able to make sure the family's animals were fed.¹¹⁸⁰ In November 2004, when the weather turned colder, Lisa brought the dogs into the house to keep them warm. The dogs were not house trained, and urinated and defecated throughout the house. Lisa did not clean up after the dogs, and the rest of the family followed suit.

Lisa fretted and "worried" about her children spending time with their father, Carl, who was unemployed. Carl wrote the court that he was unemployed but promised to be back at work soon and to get caught up on child support payments.¹¹⁸¹ Carl picked the children up in a pick-up truck, he did not have "enough food" in the house, and he gave them new toys.¹¹⁸² Carl

¹¹⁷⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery 7-28-2005.

¹¹⁷⁵ Attachment 271, Psychiatric Evaluation of Lisa Montgomery by Dr. William Logan, 5-15-2007.

¹¹⁷⁶ Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 3-9-2005.

¹¹⁷⁷ Id.

¹¹⁷⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹¹⁷⁹ Id.

¹¹⁸⁰ Id.

¹¹⁸¹ Id.

¹¹⁸² Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 3-9-2005.

wanted custody of C.J. and Chelsea, and school officials had to convince him to wait until the school break.¹¹⁸³

Lisa had poor judgment and made ill advised decisions to help others to the detriment of her own family. When she worked at Greyhound, Lisa brought “strangers home from work who didn’t have a place to stay.”¹¹⁸⁴ The strangers Lisa brought home “were always women with children” who had no money or another place to stay. They stayed one night and left.¹¹⁸⁵

Lisa grew increasingly obsessed with an unrealistic plan to breed dogs to solve the family’s severe financial problems. No one is sure where she came up with the idea, but it was a sudden decision that came without notice or discussion of realistic financial costs and potential profits. Kevin tolerated Lisa’s bizarre plans by dismissing them as the price he paid for living with a “strong and independent” woman who liked “to do things her own way.”¹¹⁸⁶ Meantime, the plan to breed dogs became another project Lisa could not complete and created more problems than it solved. On the day of Lisa’s arrest, law enforcement saw that the “house was extremely fouled with days/weeks-old canine and rodent droppings.”¹¹⁸⁷

Lisa’s erratic behavior concerned her father in law, Roger, who came to believe that Lisa had some “psychological problem that he doesn’t understand.”¹¹⁸⁸ Roger scolded Lisa her about her poor performance as a wife and mother, told her to stop working three jobs, and to stop spending time driving to dog shows. She was sometimes up, smiling, laughing, and enthused about something and other times down and tired. She did not pay bills on time and did not keep up with their income taxes. Lisa was “always tired,” had headaches, and claimed and “looked

¹¹⁸³ Id.

¹¹⁸⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹¹⁸⁵ Id.

¹¹⁸⁶ Id.

¹¹⁸⁷ Attachment 181, FBI 302 Interview with Teddy Kleiner, 1-12-2005.

¹¹⁸⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Joy and Roger Montgomery, 6-2-2005.

like” she was pregnant.¹¹⁸⁹ Roger felt “Lisa needed to be home more taking care of her house and kids,” but Lisa could not change her behavior and responded by avoiding Roger and his impossible demands.¹¹⁹⁰

Kevin bought a home pregnancy test; Lisa used it, and told Kevin that she was pregnant. She did not show him the actual results. Lisa told Kevin she would see Dr. Hutchinson for this pregnancy. She showed a sonogram picture to him and the children.¹¹⁹¹

Lisa suffered a further blow to her ability to be conscious of and attend to real life events in July, 2004.¹¹⁹² Lisa’s longtime friend from high school, Lori Kime Blalock, had a motorcycle accident July 21, 2004, and was in a coma. Lisa visited her in a Tulsa hospital and returned to the hospital when “they took Lori off life support” on July 29, 2004.¹¹⁹³ Lisa’s “grief was bad. Lori and Carl McClain were Lisa’s only two friends from her childhood. Lisa “never adjusted to losing her friend.”¹¹⁹⁴ “There were no more happy days” for Lisa, and her depression deepened over the next four months.¹¹⁹⁵

Lisa was “short tempered” and “on edge.”¹¹⁹⁶ She “picked fights” with Kevin and the children, and “it put a strain on the marriage.”¹¹⁹⁷ Lisa became paranoid and began to argue constantly that Kevin had “a different set of rules for his kids.”¹¹⁹⁸ She acted irrationally and grew upset with Kevin even when he enforced her own rules with her children.¹¹⁹⁹ Kevin didn’t see Lisa “a lot,” because she worked three jobs in the months before the offense. When he did

¹¹⁸⁹ Id.

¹¹⁹⁰ Id.

¹¹⁹¹ Attachment 226, FBI 302 Interview with Kevin Montgomery, 12-20-2004.

¹¹⁹² Attachment 227, Death Certificate of Lori Blalock.

¹¹⁹³ Id.; Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹¹⁹⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹¹⁹⁵ Id.

¹¹⁹⁶ Id..

¹¹⁹⁷ Id.

¹¹⁹⁸ Id.

¹¹⁹⁹ Id.

see her she was “run down and cranky.”¹²⁰⁰ She “was constantly talking . . . Lisa told the same stories over and over again.”¹²⁰¹ Lisa’s nonstop talking, often a symptom of affective mood disorders, aggravated a coworker’s husband who “did not like her after they met because he thought she talked too much.”¹²⁰²

Lisa could not keep pace with the needs of her children, even routine needs that others met easily. Morning routines of getting the children up, preparing their breakfast, and helping them get ready for school exasperated and overwhelmed her. She could not structurally figure out how to go through the steps others take for granted. Lisa’s coworker recognized that “Lisa’s children took care of themselves.”¹²⁰³ Lisa sought and found work that took her away from frustrating, impossible tasks of morning rituals. She went to work at Casey’s, where her shift started at 4:30 in the morning. Lisa “had to be there in the morning because she worked in the kitchen and it was her job to make the donuts and pizzas.”¹²⁰⁴ Lisa later explained that she purposely chose low skilled jobs, because she did not believe she could learn more complex tasks.

Lisa’s children were distressed by their mother’s increasing bizarre behavior. They knew “how different [Lisa] was from the other moms.”¹²⁰⁵ Lisa “was always distracted and seemed to be thinking about something else. Her body was around, but her mind was not with [the children.]” When she attempted to play with the children, “she played in a weird way.”¹²⁰⁶ Kayla, who started the tenth grade at Marais des Cygnes Valley High School and received A’s and A-’s in all her courses, left home to go and live with someone she barely knew in

¹²⁰⁰ Id.

¹²⁰¹ Attachment 228, Declaration of Jenny Hays.

¹²⁰² Attachment 198, Declaration of Cheryl Fine.

¹²⁰³ Id.

¹²⁰⁴ Attachment 228, Declaration of Jenny Hays..

¹²⁰⁵ Attachment 167, Declaration of Kayla Deanne Boman.

¹²⁰⁶ Id.

Alabama.¹²⁰⁷ Desiree “talked her mother into letting Kayla go to live with Patricia Hughes in Alabama.”¹²⁰⁸ Tommy was charged with violating Lisa’s protective order and was convicted October 15, 2004.¹²⁰⁹ On August 18, 2004, Kayla went to live with Patsy Hughes in Alabama.¹²¹⁰ C.J. wanted to go live with Carl, but Kevin opposed the plan, as did Lisa until Carl “got up on his child support.”¹²¹¹

Lisa was increasingly paranoid. She told a coworker that “Carl was always telling lies about her” and was “out to get her.”¹²¹² Carl had fallen behind in child support and threatened many times that he was going to try to get custody of the children “once he got his settlement money from the Zinc Factory.”¹²¹³ Judy “cut ties” with Lisa, dashing Lisa’s desperate hope that she could please her mother.¹²¹⁴

Lisa quit work at Wendy’s the first or second week of November, because she was going to have twins.¹²¹⁵ Lisa received a form from the Kansas Department of Health which allowed her to register a baby.¹²¹⁶ She purchased baby items from Toys-R-Us.¹²¹⁷ On November 16, 2004, Lisa received a citation of contempt for failure to appear for court relating to money owed Stormont Vail Hospital.¹²¹⁸ Lisa filed for maternity leave to start November 18, 2004 from

¹²⁰⁷ Attachment 248, Kayla Boman, Marias des Cynes Valley High School Transcript.

¹²⁰⁸ Attachment 2, Declaration of Lisa Rickert incorporating interview with Desiree Boman, 3-9-2005.

¹²⁰⁹ Attachment 246, Kansas v. Tommy Kleiner, District Court for Osage Co., Kansas, Case No. 2004-CR-168.

¹²¹⁰ Attachment 249, FBI Interview with Kayla Boman, 8-22-2006.

¹²¹¹ Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹²¹² Attachment 198, Declaration of Cheryl Fine

¹²¹³ Carl continued to claim that he was unable to work due to the 2003 injury at Zinc, and at least one physician agreed with him. Laurence H. Altshuler, M.D., concluded that Carl sustained a 45% partial permanent impairment to his right arm and could not return to the type of work – heavy lifting – he had done previously. (Attachment 127, Carl Boman Worker’s Compensation, Laurence H. Altshuler, M.D., 9-24-2004); Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹²¹⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Judy Shaughnessy, 3-14-2005.

¹²¹⁵ Attachment 250, FBI Interview notes with Interview with Mona Marcotte.

¹²¹⁶ Attachment 251, FBI Physical Evidence Retrieved From Glove Box, 1B15(18) Application for Registration of Birth.

¹²¹⁷ Attachment 252, FBI Physical Evidence Retrieved From House, 1B11(26), Receipt from Toys-R-Us, 11-15-2004.

¹²¹⁸ Attachment 191, FBI Physical Evidence Retrieved from Glove Box, 1B15(19) Notice to Appear.

Casey's General Store, but it was later denied because she was not eligible.¹²¹⁹ Lisa told Kathy Dewey that Lisa was "carrying this one ok . . . my body's not rejecting it."¹²²⁰ Lisa talked to Lisa Green about feeling morning sickness, how her back ached and about a home birthing kit.¹²²¹ On December 9, 2004, Tommy was sentenced to six months in jail for violating Lisa's protection order, the sentence was suspended, and he was placed on 12 month's supervised release.¹²²² Carl filed for custody of his and Lisa's children arguing that C.J. and Chelsea expressed a desire to live with him. Kayla did not express an opinion, and Desiree would come of age soon.¹²²³

Carl McClain spoke with Lisa on the phone about 4:00 p.m. the Tuesday before the offense. Lisa was "irritable and distraught" and wanted everyone to quit asking about the baby.¹²²⁴ Lisa felt "Joy Montgomery was pressuring her."¹²²⁵ Lisa had a nonstop list of crises in her life: Judy and Lisa's relationship was bad; Teddy's son Justin was the subject of a custody battle; Teddy was using drugs; Tommy recently broke into Lisa's house; Tommy threatened Lisa's family; Judy defended her sons over Lisa; Carl Boman wanted custody of the children; Kevin's ex-wife needed child support for her children; Lisa also feared she might lose custody of her children because her mother was helping Carl Boman in the custody battle; and Lisa

¹²¹⁹ Attachment 244, FBI 302 Interview with Cheryl Fine, 12.23.04, p.1; Attachment 229, FBI File 1A32, Request for Leave Form, 11-17-2004.

¹²²⁰ Note the word "one" is crossed out in 1A61); Attachment 247, FBI 302 Interview with Katheryn Dewey, 1-24-2005.

¹²²¹ Attachment 245, FBI 302 Interview with Lisa Green, 12-23-2004.

¹²²² Attachment 246, State of Kansas v. Tommy Kleiner, District Ct of Osage Co., KS, Case No. 2004-CR-168, Journal Entry, 12-9-2004.

¹²²³ Attachment 184, Kansas, ex rel, v. Boman, Osage County, Kansas District Court, Case No. 00D-157, Motion for Change in Custody, 12-10-2004.

¹²²⁴ Attachment 2, Declaration of Lisa Rickert incorporating interview with Carl McClain, 7-13-2005.

¹²²⁵ Id.

believed that Carl Boman killed a man while in the Navy because Carl Bowman had an affair with his wife.¹²²⁶

After the telephone call from Carl McClain, Lisa lost control of herself and began arguing with the children “over chores.”¹²²⁷ She could not control herself and “wouldn’t let it rest.” She became so upset that Kevin intervened in an effort to calm her. Lisa ran upstairs and “dumped” an entire box of books down the stairs.¹²²⁸ She threw books at Kevin and told him to leave. She threatened to take the children and leave. No one left that night, but Kevin “ended up sleeping on the couch.”¹²²⁹ Lisa came down stairs about 1:30 a.m. and lay down with him. They eventually just went upstairs to their room.¹²³⁰ On December 15, 2004, Carl told Lisa he was going to use the false pregnancy claims as a basis for obtaining custody of the children.¹²³¹

m. Week of the Offense

Lisa was coming apart in the week leading up to the offense. Lisa believed that Judy was behind Carl’s efforts to regain custody of the children. Her children were deserting her. Tommy was going to prison. Teddy was in prison. Her best friend was dead. Lisa took a day off from work, but was paralyzed and could do none of the chores she needed to accomplish. Kevin was at the end of his rope with her inability to complete basic tasks and faulted her for being home but doing absolutely nothing. She wasn’t able to put up the Christmas tree or wrap presents. On December 13, she really thought she had a baby that died. She believed she was a failure, that she could not do anything right. She physically felt like she had given birth to a baby.

¹²²⁶ Id.

¹²²⁷ Attachment 2, Declaration of Lisa Rickert, incorporating interview with Kevin Montgomery, 7-28-2005.

¹²²⁸ Id.

¹²²⁹ Id.

¹²³⁰ Id.

¹²³¹ Attachment 160, FBI Notes with Interview of Carl Boman, 1-24-2005.

The day before the offense she drove to a hospital in Topeka and sat in her car in the parking lot. She had a terrible headache and sat crying in her car. She could not stop crying. She had a deep sense that something was very wrong with her and that she was losing her mind. She was frozen. She could not get out of the car and go into the hospital. She was too paralyzed to open the car door or to roll down the window and ask for help. She sat in the parking lot for three hours, unable to move. Lisa was unable to articulate what she would have said had she gone into the hospital. As she told the story, she cried and repeatedly stated that something was wrong with her.

n. Lisa Post Arrest

Lisa's description of events after her arrest are noteworthy in several aspects. First, Lisa has consistently reported that being imprisoned is a relief because she is safe from violent and degrading sexual acts by men, including Kevin, whom she continues to care for and respect. Second, after Lisa's trial concluded and she was transferred to Carswell, BOP psychiatric staff placed Lisa on a medication regimen that has allowed her to think more clearly; to plan and to follow through with projects; and to be in contact with reality on a more sustained basis than ever before in her adulthood. Third, Lisa has been able, with appropriate therapeutic intervention and support, to begin a process of disclosing the torture she survived and how it affected her behavior over time. It is impossible to predict the consequences of her disclosure, or even the extent to which she will be able to disclose. Every care must be taken to protect Lisa's fragile mental well-being. She may be able to continue to reveal and discuss events in her life that are relevant to legal proceedings, but this process is extremely sensitive and must follow protocol for assessing severely traumatized persons.

o. Post Arrest Family History

After Lisa's arrest in 2004, Judy continued to disrupt and control Lisa's family by threatening them with criminal prosecution and imprisonment. One of Lisa's children, eighteen year old Desiree, drove another sister, fourteen year old Kayla, to a dog show in Oklahoma City without permission. Judy drove to Desiree's workplace and told her she was going to be arrested for kidnapping. Desiree asked Kevin about it, and Kevin stopped Robert Gregory, a Lyndon police officer, and asked him about the accusation. Officer Gregory told Kevin he had heard that Judy had said that to Desiree, but assured there was no warrant out for Desiree's arrest. Officer Gregory also told Kevin that Judy insinuated that Kevin was having sex with Desiree and Chelsea.¹²³²

The children were extremely traumatized by their mother's arrest and the charges against her, but showed remarkable courage. Chelsea switched schools from Melvern to Lyndon High School for the spring 2005 semester and managed to pass all but one of her classes (algebra II). She was able to continue to work on the yearbook at the new school and earned a C in it, along with C's in American literature, and American history. She received D's in human anatomy and independent study. A sympathetic teacher made Chelsea her teacher's aide, for which Chelsea received a P.¹²³³

Kayla, who lived with Patricia Hughes, withdrew from Carroll High School in Ozark, Alabama, April 21, 2005. She had a 4.0 GPA at the time she withdrew. On March 29, 2005, eighteen year old Desiree went to the hospital for headaches. She worked at Wendy's and received Medic-Aid. Her address was 409 NW Lincoln in Melvern.¹²³⁴

¹²³² Attachment 2, Declaration of Lisa Rickert incorporating interview with Kevin Montgomery, 7-28-2005.

¹²³³ Attachment 205, Chelsea Boman, Dewy Public Schools Transcript.

¹²³⁴ Attachment 240, Desiree Boman, Coffey County Hospital Medical Records, 3-29-2005.

Chelsea entered the U. S. Army Reserves September 27, 2006. At the time she lived at 820 North Ponca in Dewey. She was assigned to Aberdeen Proving Ground, Maryland, and completed basic training March 26, 2007. However on October 17, 2009, she was discharged from the Reserves under other than honorable conditions.¹²³⁵

Kayla entered the U. S. Army Reserves August 20, 2008. At the time she lived at 820 North Ponca in Dewey, Oklahoma. She was assigned to Fort Bragg, North Carolina, and returned to civilian life March 6, 2009. She was subject to active duty recall.¹²³⁶

B. Conclusions

Lisa Marie Montgomery has suffered extreme trauma and degradation throughout her life, first at the hands of her mother, then her stepfather, then each of her husbands in turn. She has never lived in an environment free of danger and fear. Her life has been characterized by extreme physical, sexual, and emotional abuse, which compromised her ability to form an identity and to develop autonomously. The effects of this unrelenting trauma upon Lisa must always be understood in the context of her familial linked mental illness, affective mood disorder (diagnosed by Dr. William Logan, Dr. Linda McCandless, and Dr. George Woods) and the psychotic features wrought by that mental illness which heightened and exacerbated the effects of the trauma. The extreme trauma suffered by Lisa Montgomery cannot be simply labeled “abuse:” this trauma was complex, unrelenting, derived from multiple perpetrators and was so extreme as to constitute torture.

1. Lisa Was Held Captive and Tortured as a Child.

Lisa Montgomery’s life on its most simplistic level must be viewed against the background of the extreme physical pain, servitude, and torture wrought on her as a developing

¹²³⁵ Attachment 241, Chelsea Boman, Certificate of Release or Discharge from Active Duty, 9-29-2009.

¹²³⁶ Attachment 242, Kayla Boman, Certificate of Release or Discharge from Active Duty, 3-6-2009.

child. As a small and frail child Lisa was held captive and tortured by methods more commonly experienced by child soldiers and prisoners of war. She was isolated, brain washed, humiliated and degraded, not allowed to speak, and beaten at will and without provocation. Her childhood captors employed strategies of control that resulted in the annihilation of her autonomy, independent decision making, sense of self. They employed tactics and practices which are or are similar to practices that have long been recognized as torture and cruel and inhumane treatment. This torture targeted specific domains of her being, working in tandem with her familially linked mental illness to undermine her ability to discern reality, to form appropriate relationships, and to achieve autonomy.

- a. *Lisa was held captive:* Lisa's mother, Judy, in collusion with a series of men, isolated Lisa from those who could help her. They forced Lisa to sleep in a closet, in a laundry room, and in a structure attached to the family trailer where she was subject to observation 24 hours a day. Judy and her designees controlled Lisa's sleep, bodily functions, and movements.
- b. *Lisa was isolated from those who could help her:* Lisa was not allowed to develop healthy and normal relationships with other children and adults in the family, neighborhood, or community. After brutal rapes increased, her parents moved the family to an isolated, rural area where rapes, beatings, and coercion continued for three years.
- c. *Lisa's participation in violent sex acts as a child was induced by force and coercion:* Adults, including Lisa's mother and stepfather used

psychological as well as physical coercion and bondage to control Lisa. She was repeatedly raped anally, vaginally, and orally by her stepfather, a male cousin, and her stepfather's acquaintances. Threat of serious harm to her or her siblings, schemes and plans that caused her to believe that failure to perform a sexual act would result in serious harm to her or others.

- d. *The sexual degradation Lisa suffered at Jack Kleiner's hands was both violent and insidious:* Jack Kleiner forced Lisa as a small girl, to strip naked in front of him as a prelude to his savage beatings. As she advanced into puberty, he began forcibly fondling her genitalia and tiny breasts. Ultimately, Jack Kleiner slammed her head against a concrete floor until she saw stars and was nauseated from the concussions as he raped her vaginally and sodomized her.
- e. *Lisa was brain washed:* Lisa's mother and others used a variety of methods to condition her to be compliant, accept control, and accept sexual assault. These methods included confinement, beatings, physical abuse, rape, threats of violence to her or her siblings, and the threat of shaming by revealing her activities to other family members.

Judy brainwashed Lisa to believe that Judy was omnipotent and Lisa was powerless and helpless. Lisa was not allowed to speak or make any noise – even the noise of a fork tine on a plate – as a child. Often Judy duct taped Lisa's mouth shut, and forced Lisa to stand in the corner waiting on her stepfather to come home and beat her. Lisa

was not allowed to voice an opinion. Lisa's safety depended on her ability to monitor Judy's every facial expression to determine how to stay on Judy's good side.

- f. *Lisa's mother used extreme strategies of coercive control to maintain mastery and omnipotence over her:* Lisa's mother humiliated and degraded her, controlled her bodily functions, did not allow her to speak or make sounds, subjected her to extreme temperatures, forced her to endure stress positions, forced her to confess falsely to wrongdoings of others, destroyed Lisa's treasured ideals, occasionally indulged her with small gifts or amenities, and choked, beat, and whipped her.
- g. *Lisa suffers from traumatic bonding:* Lisa's mother Judy instilled in Lisa gratitude for being allowed to live and an enduring desire to please Judy. Lisa continues to perceive Judy as all powerful and all knowing, able to change reality, and able to bring harm or safety to Lisa without regard to Lisa's needs.

2. Familially Linked Serious Mental Illness and Neurological Impairments Compounded the Effects of Torture on Lisa's Perception of Reality.

By her early 20's Lisa experienced the full onset of major mental illness. Her perceptions, thoughts, and actions suffered under the weight of bipolar mood disorder, enduring effects of the torture from early childhood, and neurological impairments that likely caused in part by her mother's excessive drinking during her pregnancy with Lisa. Two of these profound disabilities originated in intentional acts of her parents and caregivers – torture and prenatal alcoholism. The

third disability, however, evolved from genetic vulnerability and predisposition to psychiatric and neurologic impairments that were handed down through the generations.

Family stories on both maternal and paternal sides describe relatives with extreme mood swings; odd, eccentric, and strange behaviors; death in an insane asylum; and auditory and visual hallucinations. Relatives also have significant histories of autism, pervasive childhood development disabilities, mental retardation, epilepsy, and brain abnormalities. Although the etiology of some neurologic deficits is unknown, there is no doubt that many family members experienced significant disability due to these deficits. These psychiatric symptoms and neurologic deficits acted synergistically to compromise many of Lisa's ancestors' and more immediate family members' ability to lead healthy, productive lives.

Although sexual violation and torture were devastating in their own rights, other patterns emerged that undermined any sense of safety or security for Lisa within the family unit. Chief among these patterns was kidnapping children in the family. Lisa's paternal grandfather kidnapped her father and disappeared for a year, returning the child as "a basket case." Her father, in turn, kidnapped Lisa and her older sister. Lisa's maternal great grandfather kidnapped and hid his children so that his wife would not flee. His wife fled, kidnapping the youngest child, and never returning. Lisa's mother, in collusion with Lisa's husband, kidnapped two of Lisa's children and fled the state to avoid detection. Lisa's mother exercised and maintained control of Lisa by threatening to take her children from her, a threat rooted in historical reality.

Other patterns of destructive family dynamics also affected Lisa's life adversely. Throughout the extended family line, mothers and fathers selected particular children for favorable relationships and others for cruel treatment or abandonment. Lisa's paternal grandmother singled out and mistreated Lisa's father, and he in turn abandoned Lisa, along with

his other children. Lisa's paternal grandfather abandoned his family after returning his kidnapped son (Lisa's father) to his parents. Lisa's maternal great grandmother abandoned several children and moved with her youngest child to another state, never contacting her children again. Lisa's maternal grandfather shunned his daughter who attempted to protect her mother from his beatings. Lisa's mother exiled Lisa's half-sister, Diane, from family life – turning Diane over to the state at age 8. Once Diane was handed over to the state, Lisa's mother turned her attention to Lisa and tortured her while favoring her other children.

Lisa's family of origin was overcome by unsafe, unhealthy, and life threatening patterns of behavior demonstrated by her mother Judy, her father John, and the series of men Judy introduced into the family. Judy was a severe alcoholic who drank throughout her pregnancies. Judy moved the children from home to home and man to man without regard for her children's development. She allowed sex offenders, child rapists, alcoholics, and violent men to move in and out of their homes.

3. After the On-Set of Her Serious Mental Illness, Lisa Was Recapitulated to Childhood Captivity and Helplessness by Judy's Continued Control Over Her Life.

Throughout her life, Lisa internalized the notion was that she was powerless. This helplessness was born of Judy's incessant control over Lisa's every movement and "decision." Judy was omnipresent in Lisa's life, weaving in and out and reasserting her threats to take Lisa's children and to expose Lisa as incompetent. She kidnapped Lisa's children multiple times but also occasionally indulged Lisa with the promise of being a good grandparent and bringing Lisa into the family fold. Judy whipsawed Lisa between offers of reunification and efforts to alienate Lisa from her spouse and in-laws. Judy made sure Lisa knew Judy was present, willing, and capable of disrupting Lisa's day-to-day life.

4. Lisa's Lifetime of Enforced Silence, Domination, and Abuse Conditioned Her to Accept Violent Sexual Assault by Her Husbands.

Having spent her entire life unable to exert her own will, without control of her body, her speech, or even her opinions, Lisa was conditioned to accept violent sexual acts. As a child, she was not allowed to say no to her stepfather when he assaulted her. Had she spoken about Jack's sexual assaults, she believed her mother would have blamed and punished her, which is exactly what happened when Judy held a gun to Lisa's head and accused her of having an affair with Jack. Lisa explained that, in her mind, she "was not allowed" to tell Carl or Kevin no. If she said no to Carl, he hit her. She believed it was part of marital responsibility to accept brutalizing and dehumanizing sexual acts with Kevin. Kevin, after all, provided her with a home and was otherwise good to her. She did not know that criminal laws apply to marital rape, and became very agitated and irritated when the subject came up. She argued, "It wouldn't make any difference, because I could not say no anyway."

5. Lisa's Co-Morbid Psychiatric Illness, Complex Post-Traumatic Stress Disorder, and Neurological Impairments Compromised Her Ability to Cope with the Sexual Torture Meted Out By Her Husbands.

Lisa survived torture, brain washing, and mind control that was so severe and chronic it is similar to the experiences of boy soldiers and children sold into sex trafficking and slavery. As a child, she was isolated, silenced by duct tape and threats, repeatedly raped, subjected to extreme temperatures, choked, beaten, humiliated, and degraded. If she did not chose her words very carefully and perfect, her mouth was duct taped and she was beaten. From the moment she got up until she went to bed at night, she thought out every move to avoid being hurt and to avoid bringing harm to her younger sister. Her beloved older sister was expelled from the family, and another sister was threatened with rape if Lisa was not compliant. Her mother exercised control over Lisa's mind and behavior even when Lisa was an adult, threatening Lisa with the loss of her

children. Her first husband colluded with her mother to kidnap Lisa's children in order to obtain compliant behavior. Her first and second husbands subjected her to violent sexual acts including bondage which further severed Lisa's tangential hold on reality. She explained that she was "right back" where she started.

Lisa suffered predictable and longstanding psychosis due to the severity of the torture she survived. Torture and coercive control by her mother destroyed Lisa's autonomy, sense of self, and independence. It made her psychotic in that she lost contact with reality, became disconnected from events and circumstances around her, and developed distorted and irrational perceptions of her place in the world. After the birth of her four children in as many years, she experienced onset of major mental illness, most likely bipolar mood disorder, which caused erratic, unpredictable and extreme mood swings. The underpinnings of a healthy brain were already compromised by her mother's excessive alcohol consumption during her pregnancy with Lisa. These multiple impairments devastated Lisa's perception of reality, decision making ability, her insight, and her judgment.

6. Lisa Suffers From Extreme Psychological Impairments as a Result of Torture, Sexual Violation, and Captivity.

Lisa continues to be psychotic as a result of co-morbid conditions of serious mental illness, neurological impairment, and complex trauma reactions. Lisa experiences sustained loss of contact with reality and extremely disordered perceptions of time, personhood, and events. She experiences temporal disconnection from events, relationships, and situations in which she is a major participant. This disconnection is greater and more than dissociation associated with traumatic events. She is ashamed, fearful, distrustful, paranoid, suicidal, anxious, depressed, sleep disturbed, hypervigilant, and self loathing.

I declare under penalty of perjury and laws of the United States that the foregoing is true and correct to the best of my information and belief.

Dated this 5th day of August, 2016.

A handwritten signature in blue ink that reads "Jan Vogelsang, M.S.W." with a stylized flourish at the end.

Jan Vogelsang, M.S.W.

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South Carolina Board of Social Work Examiners (#102)
American Board of Examiners in Clinical Social Work (#018014)
Academy of Certified Social Workers (NASW)
Alabama State Board of Social Work Examiners (#10136)

APPOINTMENTS:

American Board of Examiners in Clinical Social Work Board, 2002
South Carolina Crime Victims Advisory Board, Office of the Governor, 1988-1996
Commissioner, City of Santa Monica, Santa Monica City Council, 1984
Governmental Affairs Chair, SC-NASW, 1999-2002
National Organization of Forensic Social Workers Editorial Board, 2011

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National Association of Social Workers South Carolina Chapter (ret.)
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WORK EXPERIENCE:

1980-1981 Los Angeles Department of Public Social Services, Los Angeles
California, Child Protective Services, Child Placement, Home and
Community Studies, Court Reports and Testimony, Biopsychosocial
Assessments
1982-1984 Wolfe and Vogelsang, Private Practice, Santa Monica, California,
Diagnosis and Treatment of Individuals, Families and Groups

- 1984-1985 Baptist Medical Center, Social Work Supervisor, Columbia, South Carolina, Counseling with Patients and Family, Conducting Bereavement Groups, Trauma Counselor for the Emergency Room
- 1985-1986 Family Service Greenville, Program Administrator, Domestic Violence Program, Greenville, South Carolina, Supervised Staff, Conducted Support Groups, Therapy for Individuals, Families and Groups, Conducted Biopsychosocial Assessments and Court Testimony
- 1986-1993 Private Practice, Partner, Behavioral Consultants, Inc., Greenville, South Carolina, Diagnosis and Treatment for Individuals, Families and Groups, Court Testimony, Education and Training, Biopsychosocial Assessments
- 1993 Began Solo Practice, Vogelsang Consulting, Inc., Greenville, South Carolina, Diagnosis and Treatment for Individuals, Families and Groups, Court Testimony, Biopsychosocial Assessments, Education and Training
- 1998-2011 Vogelsang Consulting, Inc. Expanded to Include Treatment of Learning and Other Cognitive/Intellectual Deficits Related to Neurological Impairments

INTERNSHIPS:

- 1978-1979 Greenville Area Mental Health Center
Diagnosis and Treatment of Mental and Emotional Disorders,
Biopsychosocial Assessments
- 1979 William Hall Institute
Diagnosis and Treatment of Mental and Emotional Disorders
Biopsychosocial Assessments
- 1979-1980 Veterans Administration Hospital
Diagnosis and Treatment of Mental and Emotional Disorders
Biopsychosocial Assessments

AREAS OF EXPERTISE AND EXPERIENCE:

Diagnosis and Treatment of Behavioral Problems in Individuals, Families, Groups
 Behavioral Responses to and Treatment of Trauma
 Addictions and Substance Abuse
 Physical, Sexual and Emotional Abuse and Neglect
 Biopsychosocial Assessments and Presentations of Findings to Individuals,
 Courts, Institutional Staff, Agency Staff and Other Organizations
 Behavioral and Learning Problems Associated with Neurological Impairments

SPEECHES AND TRAINING:

Post Traumatic Stress Disorder
 Survivors of Trauma
 Victimization and the Courts
 Biopsychosocial Assessments
 Family Systems
 Child Welfare and Development
 Resilience

COURT EXPERIENCE:

- Child Protection
- Child Custody
- Child Placement
- Termination of Parental Rights
- Adoptions
- Sexual Assault
- Family Violence
- Divorce
- Capital and non-capital criminal cases
- Conducting biopsychosocial assessments and rendering expert opinions in family and criminal court

PUBLICATIONS:

- Master's Thesis
 - A Multidisciplinary Approach to Child Abuse and Neglect-1980
- Crime Victims Handbook
 - Advisor-Office of Victim Witness Assistance
 - Thirteenth Circuit, Greenville, South Carolina
- The Witness Stand: A Guide for Clinical Social Workers in the Courtroom

RECOGNITIONS:

- Office of the Thirteenth Circuit Solicitor, Thirteenth Judicial Circuit, Outstanding and Dedicated Service
- National Association of Social Workers, 1987 Spring Symposium, Outstanding Service
- National Association of Social Workers, 1985-1988, South Carolina PACE Representative, Outstanding Service
- National Association of Social Workers, 1987-1989, Board of Directors, Contribution to the Profession of Social Work

AWARDS:

- Social Worker of the Year, 2002, SC-NASW
- Alumnus of the Year, 2002, University of South Carolina College of Social Work
- Outstanding Leadership in the Advancement of the Social Work Profession, 2002, SCSCSW
- South Carolina Senate Motion, 2002, for Outstanding Leadership in the Profession of Social Work
- South Carolina House of Representatives, 2002, House Resolution H.4838, for Leadership of the South Carolina Chapter of the National Association of Social Workers